U. S. Environmental Protection Agency

Office of Solid Waste and Emergency Response

FY 2009 National Program Manager's Guidance

April 2008

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Table of Contents

Executive Summary: Office of Solid Waste and Emergency Response (OSWER)

I. Program Office

This guidance contains implementation priorities for all major OSWER offices: the Office of Superfund Remediation and Technology Innovation (OSRTI), the Federal Facilities Restoration and Reuse Office (FFRRO), the Office of Emergency Management (OEM), the Office of Brownfields and Land Revitalization (OBLR), the Office of Solid Waste (OSW) and the Office of Underground Storage Tanks (OUST). OSWER's enforcement counterparts, principally the Office of Enforcement and Compliance Assurance's (OECA's) Office of Site Remediation Enforcement (OSRE) and Federal Facilities Enforcement Office (FFEO), also are represented in this guidance. Basic approaches remain the same from last year.

II. Introduction/Context

The OSWER guidance defines national policy, strategic goals and priority activities consistent with *OSWER's Action Plan*[1], as well as Superfund enforcement goals managed by OECA. This guidance, prepared to implement priorities described in *EPA's 2006-2011 Strategic Plan*[2] and in *EPA's FY 2009 Annual Performance Plan and Congressional Justification*[3], should be used to assist in National Environmental Performance Partnership System (NEPPS) discussions.

III. Program Priorities

The following objectives characterize EPA's land program activities: Revitalization; Recycling, Waste Minimization and Energy Recovery; Emergency Preparedness, Response and Homeland Security; Implementation of the Energy Policy Act of 2005; and Clean Energy and Greenhouse Gas Reduction.

- Revitalization: All of EPA's cleanup programs (Superfund Remedial, Superfund Removal, Superfund Federal Facilities Response, Resource Conservation and Recovery Act (RCRA) Corrective Action, Brownfields, and Underground Storage Tanks) and their partners are taking proactive steps to accommodate and facilitate the cleanup and revitalization of contaminated properties. Revitalizing these once productive properties can provide numerous positive impacts for communities such as removing blight, satisfying the growing demand for land, limiting urban sprawl, fostering ecologic habitat enhancements, enabling economic development, and maintaining or improving quality of life. With the emergence of revitalization as a priority, the need for cleanup programs to measure their

[1] OSWER's Action Plan can be found at http://www.epa.gov/oswer/actionplan/index.htm
[2] The *2006-20011 EPA Strategic Plan* can be found at http://www.epa.gov/ocfopage/plan/plan.htm Waste programs and their enforcement components are contained in goals 3, 4 and 5.
[3] The *EPA FY 2009 Annual Performance Plan and Congressional Justification* can be found at http://www.epa.gov/budget/2009/2009cj.htm

performance and report accomplishments in terms related to the availability of land for use or reuse of land is increasingly important.

- Recycling, Waste Minimization and Energy Recovery: EPA's strategy for reducing waste generation and increasing recycling is based on: (1) establishing and expanding partnerships with businesses, industries, states, communities, and consumers; (2) stimulating infrastructure development, environmentally responsible behavior by product manufacturers, users, and disposers ("product stewardship"), and new technologies; and (3) helping businesses, government, institutions, and consumers through education, outreach, training, and technical assistance. Furthermore, EPA's Resource Conservation Challenge (RCC) programs contribute to the reduction of energy use and greenhouse gas emissions.

- Emergency Preparedness, Response, and Homeland Security: EPA has a major role in reducing the risk to human health and the environment posed by accidental or intentional releases of hazardous substances and oil. EPA will improve its capability to effectively prepare for and respond to these incidents, working under its statutory authorities and, for major incidents, working closely with other Federal agencies within the National Response Framework (NRF).

- Implementing New Energy Legislation: EPA has a critical role in implementing the provisions of the Energy Policy Act (EPAct) of 2005. The EPAct substantially enhances the underground storage tank (UST) release prevention program to minimize future releases from USTs and provide additional emphasis on remediation of leaking USTs. Implementing the EPAct provisions includes conducting more frequent inspections, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers. For further information and final EPA grant guidance, see *http://www.epa.gov/swerust1/fedlaws/EPActUST.htm*.

- Clean Energy and Greenhouse Gas Reduction: To support the Administrator's Clean Energy and Climate Change Priority, EPA continues to build on the substantial greenhouse gas reductions and energy savings already being realized through the RCC in all of OSWER's materials management and land cleanup programs.

IV. Regional Priorities

In late 2005, the Deputy Administrator asked the regions to identify a limited number of Regional and state priorities. These priorities were based upon dividing the nation into geographic groups and establishing performance measures to support the priorities. The geographic areas include the Northeast, Midwest, Great South, Great American West, Tribes, U.S.–Mexico Border and Islands.

Many of the performance measures developed by these regional groups support OSWER national program priorities. The selected regional priorities that align with or support OSWER's national goals include Superfund and Brownfields site assessments; Superfund construction completions; Brownfields acres made ready for reuse; emergency preparedness training and exercises; and tribal efforts to increase the number of tribes covered by integrated waste management plans, to close, cleanup, or upgrade open dumps, and to assess, clean up, and redevelop Brownfields properties.

The U.S.-Mexico border priority concerning removal and disposal of scrap tires supports OSWER's waste management priorities. Under the Midwest's Lead Poisoning priority, residential properties are being restored using Superfund authorities. These actions support Superfund priorities. Finally, the OSWER program-related measures for the Great South are very specific to Hurricanes Katrina and Rita and are not included in the FY 2009 NPM guidance.

V. Tribal Program Development

OSWER supports tribal governments through capacity building, technical assistance and outreach. The tribal program will be finalizing the draft *OSWER Tribal Strategy, an EPA and Tribal Partnership to Preserve and Restore Land in Indian Country*, which describes in detail each of OSWER's program strategies, priority activities, and associated measures for tribes; and provides cross-program strategies, direction, and national initiatives for OSWER's tribal program. OSWER's tribal program priorities and strategies directly support EPA's Strategic Plan and components of the Administrator's and OSWER's Action Plans. In particular, OSWER seeks to strengthen EPA through stronger partnerships with tribes, and improving tribal-related data and information quality and accessibility in Indian country.

In tandem with existing tribal program support, OSWER will focus on the following key areas to help improve tribal program development and performance:

- Improve dialogue, outreach and information sharing between EPA and tribes concerning OSWER's efforts under Goals 3 and 4 of EPA's Strategic Plan.
- Improve tribal baseline data and establish a process to report on tribal-specific cross-program measures,
- Maintain a stable set of internal measures for routine analysis of OSWER tribal program performance.
- Increase the level of understanding of the concept of risk and EPA's role/approach to risk in Indian country.
- Improve results from OSWER tribal training.
- Improve tribal outreach and tools in OSWER.

VI. Environmental Justice and CARE

Environmental justice (EJ) is a priority throughout all of OSWER's waste programs, promoting healthy and environmentally sound conditions for all people. OSWER's EJ program is currently updating the biennial *OSWER Environmental Justice Action Plan*, which describes each of OSWER's program strategies, priority activities and associated measures for EJ and provides cross-program strategies and direction for OSWER's EJ program. The OSWER EJ Action Plan will align EJ program commitments with EPA's 2006-2011 Strategic Plan, the Administrator's Priorities, regional priorities, and the NPM priorities.

EPA's Community Action for a Renewed Environment (CARE) program supports the Agency's priorities for protecting children and upholding citizens' rights to be knowledgeable about the health of their environment. The CARE program is a community-based, multi-media collaborative Agency program designed to help local communities address the cumulative risk of toxics exposure. Through the CARE program, EPA programs work together to provide technical support and funding to communities to help them build partnerships and use collaborative problem solving processes to select and implement actions to improve community health and the environment. Information about CARE can be found at: http://www.epa.gov/care/.

VII. Implementation Strategies

The Superfund Remedial program will focus on cleaning up sites and making them available for beneficial reuse. These goals will be achieved by assessing the worst sites first, ensuring that human exposure to toxic chemicals and migration of contaminated groundwater are under control, selecting remedies that optimize reuse and revitalization, completing construction of remedies, fully implementing institutional controls where necessary, ensuring sites are ready for anticipated use, and working with public and private stakeholders to redevelop sites. States and tribes are key partners in the cleanup of Superfund hazardous waste sites, and Superfund's Regional offices will continue to work closely with these partners in accomplishing key goals and objectives under EPA's 2006 - 2011 Strategic Plan.

The Superfund Federal Facilities Response program will focus on achieving site construction completions and promoting reuse at Federal facilities listed on the National Priorities List (NPL) and specific Base Realignment and Closure (BRAC) bases. Work at these sites will be done collaboratively with our Federal, state, tribal and local partners as well as affected communities. The Federal Facilities Enforcement program will use the most appropriate enforcement and compliance tools to address the significant problems at these sites. In addition, the program will try to resolve outstanding site-specific disputes as well as obtain statutorily mandated Interagency Agreements (IAGs)/Federal Facility Agreements (FFAs) at those NPL sites without one. The Superfund Federal Facilities Response and Enforcement programs will work together to ensure that the Federal government addresses its responsibilities at NPL and BRAC sites.

The Superfund Removal and Oil programs will ensure that releases of hazardous substances and oil in the inland zone are appropriately addressed to reduce the threat to human health and the environment. The Oil program will promote spill prevention by communicating the revised Spill Prevention, Control and Countermeasure (SPCC) regulation and working with industry to implement the requirements. EPA will continue to support local, state and other Federal responders at incidents when Federal support is needed and appropriate, and direct and/or monitor responses by responsible parties. EPA will ensure a coordinated effort concerning homeland security issues, among its own offices and with other Federal agencies, to prepare for coordinated and effective responses to nationally significant incidents. EPA also will actively audit facilities that are required to have Risk Management Plans (RMPs) and analyze RMP data to understand trends in and causes of chemical accidents. RMP data also will be utilized to conduct outreach to improve chemical safety.

The Brownfields program will promote assessment, cleanup, and redevelopment of brownfields; fund grant programs and other research efforts; clarify liability issues; enter into partnerships with local, state, tribal and Federal entities; conduct outreach activities; and support brownfields job training programs. In FY 2009, Regions will continue to implement the Brownfields program; support the national grant competition; emphasize performance and outcome measurement; work with state and tribal co-implementers of the Brownfields law; provide technical outreach support; and address environmental justice issues.

The RCRA program continues its focus on two primary areas for FY 2009. One is the continued existing statutory obligations to ensure the safe management of hazardous and non-hazardous waste and to clean up hazardous and non-hazardous releases. The other is our emphasis on resource conservation and materials management through partnerships. Much of the effort toward solid waste and chemicals reduction and recycling is under the RCC program. In addition, the RCRA program will continue its efforts to meet the commitments made as part of the Special Regional Priority for the Mexico Border area.

The Underground Storage Tank (UST) program will continue to assist states and tribes in implementing the UST program. The program has a strong focus on preventing leaks from USTs, and detecting, as early as possible, those leaks that do occur. The program also has a strong cleanup focus to assess and clean up leaks from USTs, including those at brownfield sites contaminated with petroleum. The UST program places a high priority on close collaboration with tribes to conduct the UST program in Indian Country and to build tribal capacity in the program. In addition, the program will continue to work very closely with and provide assistance to states to help them meet their new responsibilities authorized under the EPAct of 2005, Title XV, Subtitle B.

EPA, states, territories, and tribes are working together to develop the National Environmental Information Exchange Network, a secure, Internet- and standards-based way to support electronic data reporting, sharing, and integration of both regulatory and non-regulatory environmental data. Where data exchange using the Exchange Network is

available, states, tribes and territories exchanging data with each other or with EPA should make the Exchange Network and EPA's connection to it, the Central Data Exchange (CDX), the standard way they exchange data and should phase out any legacy methods they have been using. More information on the Exchange Network is available at http://www.exchangenetwork.net/

In addition to these program priorities, OSWER is continuing to emphasize the importance of cross-program revitalization measures to promote and communicate cleanup and revitalization-related accomplishments and associated benefits/values to society[4]. These acres-based measures will allow OSWER for the first time to describe the collective scope of sites all of its cleanup programs are addressing as well as acres-based progress. During FY 2007, OSWER programs developed approaches to efficiently implement the following three cross-program revitalization measures, which will be predominantly based on information the programs already collect:

- *Universe Indicator* - the total number of sites and acres being addressed by all OSWER's cleanup programs.
- *Protective for People Performance Measure* - the number of sites and acres at which there is no complete pathway for human exposures to unacceptable levels of contamination based on current site conditions.
- *Ready for Anticipated Uses (RAU) Performance Measure* - the number of sites and acres at which cleanup goals have been achieved for media that may affect current as well as reasonably expected future land uses, and institutional controls[5] identified as part of the remedy are in place.

Implementation of these measures began in 2007 and continues in 2008. Data for FY 2007 and FY 2008 will be released in 2008. In FY 2009, OSWER programs will be expected to collect and report those data on an ongoing basis.

VIII. Measures

On October 11, 2006, the Deputy Administrator signed a memorandum entitled, *State Reporting Burden and Measures Streamlining Initiatives*,[6] to provide an important opportunity for our state partners and EPA to identify burdensome requirements and measures for potential deletion or modification. Through these initiatives, EPA developed a smaller set of reporting requirements to support measures that are useful for monitoring Agency performance. OSWER also has implemented the recommendations of eight states to reduce reporting burden and will implement three additional state recommendations during 2008 (see attachment IV for details).

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[4] See following websites for more information on documenting and reporting OSWER's land revitalization performance measures and indicators: http://www.epa.gov/fedfac/sf_ff_final_cprm_guidance.pdf, http://www.epa.gov/correctiveaction/ and http://www.epa.gov/brownfields/pubs/rptforms.htm

[5] For more information concerning institutional controls please see http://www.epa.gov/superfund/policy/ic/index.htm

[6] The October 11, 2006 memorandum entitled, "State Reporting Burden and Measures Streamlining Initiatives" can be found at http://www.epa.gov/cfo/npmguidance/fy07_memo_from_peacock.pdf

For this Guidance, the Agency has undertaken a review of its measures to improve them through better alignment with like measures or through eliminating measures altogether. As a result of this review, 17 of OSWER's measures formed the basis for a total of 41 changes to align measures across the Agency's planning and reporting documents. In addition, the Annual Commitment System measure, "Percentage of Brownfields job training trainees placed," has been eliminated and a new measure reporting BTUs of energy conserved and MTCE of greenhouse gas emissions reduced by the Resource Conservation Challenge program is being introduced in FY 2009.

IX. Significant Changes to Priorities or Strategies from FY 2008

In FY2009, the Brownfields Program will streamline the Assessment, Revolving Loan Fund and Cleanup (ARC) Grant Guidelines to ensure the highest quality, most viable projects are funded to further meet our assessment, cleanup and land revitalization goals. Over the course of the year a workgroup comprised of ten regional representatives and headquarters staff has met to revise the guidelines, highlighting national and regional priorities in the statutory-based proposal evaluation criteria. The goal of these revisions is to make the guidelines as clear as possible, attract a dynamic pool of applicants and select the projects with the most potential for success.

In FY 2009, EPA's Superfund program must devote additional attention to the growing universe of sites that reach the post-construction complete phase. Approximately 65 percent of NPL sites have achieved construction completion and are in the post-construction phase of the cleanup pipeline, while many other sites have achieved completion of some milestone of their cleanup process.

The goal of post-construction completion activities is to ensure that Superfund response actions at both Federal and private sites provide for the long-term protection of human health and the environment. Post- construction completion activities also involve optimizing remedies to increase effectiveness and/or reduce cost without sacrificing long-term protection of human health and the environment. Five-Year Reviews generally are required when hazardous substances remain on site above levels that permit unrestricted use and unlimited exposure. These reviews are usually performed five years following the initiation of a CERCLA response action, and are repeated in succeeding five-year intervals so long as future uses remain restricted. Five-year reviews provide an opportunity to evaluate the implementation and performance of a remedy to determine whether it remains protective of human health and the environment.

The Agency will also take new actions in FY 2009 to improve program management and increase efficiency. In coordination with the U.S. Army Corps of Engineers and consulting engineers, EPA plans to establish a Center of Expertise to advise Regional offices on how to appropriately stage significant design and construction projects. Through the Center, technical resources will be made available to EPA Regional project managers to help promote the efficiency of project delivery and facilitate project progress through the Superfund pipeline. In addition, the Agency will continue focusing on optimizing groundwater remedies and sharing best practices with Regional offices for cost management and efficiency improvements.

X. Program Contacts (staff)

Program/Issue	Contact
General OSWER	Sue Priftis (202) 566-1901
	Howard Rubin (202) 566-1899
	Glen Cuscino (202) 566-1906
Superfund Remedial	Art Flaks (703) 603-9088
	Janet Weiner (703) 603-8717
Emergency Management	Lisa Guarneiri (202) 564-7997
	Josh Woodyard (202) 564-9588
	Bill Finan (202) 564-7981
Brownfields	Juanita Standifer (202) 566-2764
	Rachel Lentz (202) 566-2745
OSWER Revitalization	Patricia Overmeyer (202) 566-2774
Solid Waste	Wayne Roepe (703) 308-8630
	Angela Talaber (703) 308-1848
Underground Storage Tanks	Carolyn Hoskinson (703) 603-7166
	Lynn DePont (703) 603-7148
	Hal White (703) 603-7177
Federal Facilities	Tencil Coffee (703) 603-0053
Tribal	Felicia Wright (202) 566-1886
Innovation	Jeffrey Kohn (202) 566-1407
Clean Energy/ Greenhouse Gas	Cathy Allen (202) 566-1039
Environmental Justice & CARE	Kent Benjamin (202) 566-0815

Superfund Remedial and Federal Facilities Response Programs

Goal Three: Land Preservation and Restoration
Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land

On December 11, 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). CERCLA was enacted to fill a major gap in environmental and health protection by providing the Federal government with additional statutory authority to respond to releases and threats of releases of hazardous substances, pollutants and contaminants. CERCLA was later amended by the Superfund Amendments and Reauthorization Act in 1986.

The Superfund Remedial program manages the risks to human health and the environment at contaminated properties or sites through cleanup, stabilization, or other action, and in so doing helps make these properties available for reuse. Resources in this program are used to: 1) collect and analyze data on sites to determine the need for a Federal CERCLA response, which may culminate in the placement of a site on the National Priorities List (NPL), 2) conduct or oversee investigations and studies to select remedies, 3) design and construct or oversee construction of remedies and post-construction activities at non-Federal facility sites, 4) facilitate participation of other Federal agencies, state, local, and Tribal governments and communities in the program, 5) implement Superfund tribal guidance concepts to improve EPA's tribal consultation efforts in the Superfund program and consideration of tribal lifeways in the Hazard Ranking System, and 6) provide sound science and continually integrate smarter technical solutions into protection strategies.

The Superfund Federal Facilities Response program facilitates faster, more effective and less costly cleanup and reuse of Federal facilities while ensuring protection of human health and the environment from releases of hazardous substances. Nationwide, there are thousands of Federal facilities which are contaminated with hazardous waste, military munitions, radioactive waste, fuels, and a variety of other toxic contaminants. These facilities include various types of sites, such as Formerly Used Defense Sites (FUDS); active, realigning and closed installations; abandoned mines; nuclear weapons production facilities; fuel distribution areas; and landfills.

The Agency fulfills a number of statutory and regulatory obligations at Federal facilities, including conducting oversight of those sites on the Superfund NPL where cleanup is being done by other Federal agencies, such as the Department of Defense (DoD) and the Department of Energy. A major role of the program is to ensure statutory responsibilities related to the transfer of contaminated Federal properties at both NPL and non-NPL sites are properly met. Such responsibilities include approval of transfers prior to implementation of remedies at NPL sites (i.e., early transfer), and approving determinations that remedies are operating "properly and successfully" at both NPL and non-NPL sites. Often EPA, and the parties implementing the remedies, face unique challenges due to the types of contamination present, the size of the facility and extent of

contamination, ongoing facility operations that need to continue, complex community involvement requirements, and complexities related to the redevelopment of the facilities.[1]

The Superfund Federal Facilities Response program also supports the DoD at selected Base Realignment and Closure (BRAC) installations. With the enactment of BRAC legislation, more than 500 major military installations representing the Army, Navy, Air Force, and Defense Logistics Agency were slated for realignment or closure in 1988, 1991, 1993, 1995 and 2005. Under the first four rounds of BRAC, 107 of those sites were identified as requiring accelerated cleanup. Seventy-two Federal facilities currently listed on the NPL were identified under BRAC 2005 as closing, realigning or gaining personnel.[2] EPA has worked with the DoD over the past several years on their effort of privatizing BRAC sites.

Working together with Federal, state and tribal partners, the Superfund Response program accomplished the following activities in FY 2007:[3]

- Completed 395 final assessment decisions, for a cumulative total of 39,766 sites evaluated since the program's inception.
- Added 12 new sites to the NPL, and proposed 17 sites to the NPL. As of the end of FY 2007, 1,635 sites were either proposed, final, or deleted from the NPL, of which 177 were Federal facility sites.
- Selected final cleanup plans at 26 sites. These additional plans bring the cumulative total of sites with final cleanup plans to approximately 75 percent of 1,569 final and deleted NPL sites.
- Oversaw ongoing construction at more than 200 remedial design projects and 400 remedial construction projects, conducted either by EPA (or states) or potentially responsible parties under EPA or state oversight.
- Obligated more than $82 million in appropriated funds, state cost-share contributions, and potentially responsible party settlement resources for 19 new construction projects ranked by the National Risk-Based Priority Panel at 19 National Priorities List (NPL) sites. This represents all new construction projects that were ready for funding in FY 2007.
- Achieved control of all identified unacceptable human exposures at a net total of 13 additional sites, bringing the program's cumulative total to 1,282 sites under control.
- Achieved control of the migration of contaminated groundwater through engineered remedies or natural processes at a net total of 19 additional sites,

[1] For more information on the Federal Facilities program go to http://epa.gov/fedfac.
[2] For more information on the BRAC program go to http://epa.gov/fedfac/documents/baseclosure.htm.
[3] For more information regarding the program's cumulative accomplishments through FY 2007, please refer to the Goal 3 Chapter of the Agency's *FY 2007 Performance and Accountability Report* at www.epa.gov/ocfo.

bringing the program's cumulative total to 977 sites under control.

- Achieved construction completion at 24 sites for a cumulative total of 1,030 NPL sites. In addition, 7 sites were deleted from the NPL for a cumulative total of 320 NPL site deletions.
- Conducted 203 Five-Year Reviews.

Program Priorities

In FY 2009, as in prior years, cleanup and response work at contaminated sites remains the top priority of the Superfund Remedial and Federal Facilities Response programs. The Superfund Response program will continue to address intractable and complex environmental problems, such as contaminated soil and groundwater affecting residential areas that can cause human health problems. The goal of this work is ultimately to reduce current, direct human exposures to hazardous pollutants and provide long-term human health protection. In addition to its cleanup work, the Superfund program will also undertake temporary activities, when appropriate, to protect people from threats posed by uncontrolled hazardous wastes or contaminated groundwater, such as providing alternative drinking water supplies or relocating residents. These efforts demonstrate the Agency's commitment to protecting human health from both possible short- and long-term effects of site-related contamination.

Performance goals and measures for the Superfund Federal Facilities Response program are a subset of the Superfund Remedial program's measures. The Agency's ability to meet its annual Superfund targets is partially dependent on work performed by other Federal agencies at NPL Federal facility sites.

Performance Goals for FY 2009:

(1) 400 remedial final site assessment decisions;
(2) A net total of 10 additional sites with human exposures under control;
(3) A net total of 15 additional sites with groundwater migration under control;
(4) 30 additional sites deemed site-wide ready for anticipated use;
(5) 35 construction completions; and
(6) 6.7 sites with current or long -term exposure controlled per million dollars expended (PART efficiency measure).

The Superfund Federal Facilities program underwent a PART assessment entitled "EPA Support for Cleanup of Federal Facilities" in FY 2005 and received an overall rating of "moderately effective." As follow-up to the PART, the program has been working with other Federal agencies to attain long-term environmental measures. These efforts will continue in FY 2009. In addition, the program conducted a policy review in FY 2006 to ensure policies and guidance documents are still relevant and comprehensive. The program implemented several of the resulting recommendations in FY 2007 and will implement additional recommendations in FY 2008. Another evaluation of the program is currently being conducted. Results and recommendations generated from this evaluation may be implemented as early as FY 2009. The current program evaluation will analyze

the Program's planning and data processes for cleanup milestones.

Implementation Strategies to Meet Performance Goals

This NPM guidance provides direction to the Regions to meet the priorities of the Superfund Remedial and Federal Facilities Response programs. In FY 2009, the Superfund Response program will focus on cleaning up sites and returning them to beneficial reuse. The general approach for achieving these goals will be assessing the worst sites first, ensuring that human exposure to toxic chemicals and migration of contaminated groundwater are under control, selecting remedies that optimize reuse and revitalization, completing construction of remedies and ensuring sites are ready for anticipated use. States, tribes and other Federal agencies are key partners in the cleanup of Superfund hazardous waste sites, and Superfund's Regional offices will continue to work closely with these partners in accomplishing key goals and objectives under the EPA FY 2006 - 2011 Strategic Plan.

EPA is committed to providing resources to maintain adequate construction progress at all sites, including large and complicated remedial projects, once construction has started. Funding for Superfund construction projects is critical to achieving risk reduction, construction completion, and restoration of contaminated sites to productive reuse. The program will continue to work with Regions to improve long-term planning construction estimates and funding strategies. The Agency will also continue to emphasize the importance of the community in its decision-making and remedy implementation and construction activities.

EPA also will devote more attention to the growing universe of sites that reach the post-construction complete phase. Over 65 percent of NPL sites have achieved construction completion and are in the post-construction phase of the cleanup pipeline, while many other sites have achieved completion of some aspects of their cleanups. EPA plans to conduct over 200 five-year reviews in FY 2009, and the Agency will continue to need resources to conduct activities to ensure remedies are working optimally and as intended at sites where any hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure.

The Superfund Response program is also evaluating all construction complete sites to ensure any necessary institutional controls (ICs) have been implemented. This work is identifying many older sites for which ICs should have been implemented. The program is also making IC information available on the internet to enable the public to view IC instruments affecting individual sites.[4] A system has been developed to capture this information. Headquarters is regularly monitoring Regions' progress in reviewing all construction complete sites and instituting effective ICs. The Cross-Program Revitalization Measure, described below, measures progress in this area.

On March 2, 2007, OSRTI and FFRRO released the Final Guidance outlining how the

[4] Please visit the following website to search Superfund site information: http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm

Superfund and Federal facilities programs will document and report performance in achieving Land Revitalization.[5] This guidance complements the October 18, 2006, Interim Guidance for OSWER Cross-Program Revitalization Measures (CPRM guidance), which provides the overarching framework for this effort across all OSWER cleanup programs, and reflects comments received on the OSRTI / FFRRO December 21, 2006 draft Guidance for Documenting and Reporting Performance in Achieving Land Revitalization.

At the end of FY 2007, Regions entered data into CERCLIS for the Cross-Program Revitalization Measures and the Site-wide Ready for Anticipated Use performance measure. Results of this data entry indicate that 244 NPL sites currently meet the criteria for the Site-wide Ready for Anticipated Use measure (which requires that ICs to be in place). FY 2007 targets for this measure were exceeded, and targets for this measure have been set through 2011. Over the course of FY 2008, OSRTI and FFRRO will be analyzing CPRM information in order to ensure that the data are of sound quality and to prepare the data for OSWER communication efforts.

To further enhance program effectiveness, the Agency will continue focusing on optimizing groundwater remedies and sharing best practices with Regional offices for cost management and efficiency improvements. EPA is also monitoring Regional use of resources, including special accounts. New Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) fields will include more planning information for these accounts, and Headquarters will incorporate this information in making funding decisions at sites.

In FY 2007, the program introduced a new efficiency measure that tracked the number of NPL sites with human exposures under control per million dollars. EPA is currently working to modernize the program's data repository (i.e., CERCLIS) to ensure accurate and complete information on program performance and financial management.

[5] Please see guidance at http://www.epa.gov/fedfac/sf_ff_final_cprm_guidance.pdf

Emergency Preparedness, Response, and Prevention Programs

Goal Three: Land Preservation and Restoration
Subobjective 3.2.1: Prepare for and Respond to Accidental and Intentional Releases

EPA plays a major role in reducing the risks posed by accidental and intentional releases of hazardous substances and oil to human health and the environment. Under the National Response System (NRS), EPA and the U.S. Coast Guard evaluate thousands of spills and releases annually and often respond to the incidents. The Federal response is essentially a safety net to address the incidents that are beyond the capability of, or otherwise cannot be adequately addressed by, the state, Tribal or local agency or responsible party. EPA's primary role in the NRS is to serve as the Federal On-Scene Coordinator (OSC) for spills and releases in the inland zone.

The NRS is a multi-agency preparedness and response mechanism that includes the National Response Center, the National Response Team (composed of 16 Federal agencies), 13 Regional Response Teams and Federal OSCs. These organizations work with state and local officials to develop and maintain contingency plans that will enable the Nation to respond effectively to hazardous substance and oil emergencies. When an incident occurs, these groups coordinate with the OSC in charge to ensure that all necessary resources, such as personnel and equipment, are available and that containment, cleanup, and disposal activities proceed quickly, efficiently and effectively.

To prepare for large-scale responses to incidents such as the World Trade Center, the anthrax attacks, and the Columbia Shuttle recovery, the Agency instituted its National Approach to Response (NAR). The NAR emphasizes the need to provide the necessary levels and appropriate types of support during major responses and greater consistency across the Regions in emergency response capabilities. Preparedness on a national level is essential to ensure that emergency responders are capable of managing multiple, large-scale emergencies. EPA will improve its capability to effectively prepare for and respond to these incidents, working under its statutory authorities and, for major high-consequence incidents, will work closely with the Department of Homeland Security (DHS) and other government agencies within the National Response Framework (NRF).

As part of enhancing its readiness capabilities, EPA is continually working to improve internal and external coordination and communication mechanisms. For example, EPA's National Incident Coordination Team brings together various program offices during a response to ensure coordination of all Agency activities. Under the Continuity of Operations/Continuity of Government program, EPA continually upgrades and evaluates plans, facilities, training, and equipment to ensure that essential government business can continue during a catastrophic emergency.

EPA will continue to improve its capability to respond effectively to incidents that may involve harmful chemical, oil, biological, and radiological substances. The Agency will explore improvements in field equipment, response training and exercises, and technical capabilities. We also will review response data provided in "after-action" reports

prepared by EPA emergency responders following a release and examine "lessons learned" reports to identify which activities work and which need to be improved. Application of this information and other data will advance the Agency's state-of-the-art emergency response operations.

EPA has enhanced its emergency response and removal capabilities through the development of the Core Emergency Response (Core ER) assessment tool program. The Core ER sets standards to ensure that each Region works toward improving and maintaining an excellent response program. EPA recently implemented a revised Core ER tool to address the current state of emergency response excellence, in light of lessons learned from responses to recent terrorist incidents (e.g., 9/11, anthrax contamination) and Hurricanes Katrina and Rita. The strategic target associated with these efforts is, "By 2011, achieve and maintain at least 95 percent of the maximum score on readiness evaluation criteria in each Region."

Facility Oil Spill Preparedness and Prevention

The amended Clean Water Act requires facilities with certain quantities of oil to prepare Facility Response Plans (FRPs) and submit them to EPA (or other appropriate Federal agencies) for review and approval. Approximately 4,000 facilities must submit FRPs to EPA. EPA uses information in the FRPs to develop Area Contingency Plans under the National Contingency Plan. EPA inspects FRP facilities and conducts unannounced drills to test facility preparedness.

The Spill Prevention, Control and Countermeasure (SPCC) regulation under the Clean Water Act requires covered facilities to take specific steps to prevent and contain oil spills. EPA estimates that approximately 600,000 facilities are subject to the SPCC regulation. EPA amended the SPCC regulation in December 2006 and proposed additional amendments in 2007.[6] Facilities will have to develop and/or amend SPCC plans in compliance with the amended regulation in 2009. EPA inspects approximately 1,000 SPCC facilities each year.

Evaluation, Measures, and Targets

In its 2006-2011 Strategic Plan, EPA has set a target that by 2011 it will achieve and maintain at least 95 percent of the maximum score on readiness evaluation criteria for each region. The Core ER assessment tool is used to score regional capabilities related to health and safety; training and exercises; proper delegation and warrant authorities; and response readiness; including equipment, transportation and outreach. In FY 2007, the Core ER assessment tool was expanded to gauge staff capability to implement policies, put skills into practice and use equipment. For FY 2008, the measure has been re-phrased as "Score on annual Core ER assessment" to more clearly state how we gauge progress in improving our capabilities.

[6] For more information on EPA's proposed amendments to the SPCC regulation, please see http://www.epa.gov/OEM/content/spcc/spcc_oct07.htm

In FY 2005, the Office of Management and Budget (OMB) reassessed the Superfund Removal program and assessed, for the first time, the Oil program using OMB's Program Assessment Rating Tool (PART). The Removal program achieved a rating of moderately effective and the Oil program achieved a rating of adequate. Both programs are required to implement several OMB recommendations over the next five years in order to make them more efficient and effective, including the development of better outcome measures. Those recommendations are outlined below.

OMB Recommendations for the Superfund Removal program:

- Modernize the program's data repository (CERCLIS) to ensure accurate and complete information on program performance and financial management;
- Investigate the feasibility of outcome measures that test the linkage between program activities and impacts on human health and the environment; and
- Develop a plan for regular, comprehensive and independent assessments of program performance.

OMB Recommendations for the Oil program:

- Develop stronger strategic planning procedures to ensure continuous improvement in the program, including regular procedures that will track and document key decisions and work products;
- Evaluate the data quality of key data sources used by the program to improve the accuracy and reliability of performance information; and
- Develop a forum for sharing and implementing best practices among Regional offices that will improve the program's overall performance and efficiency.

EPA is addressing these recommendations aggressively. For example, detailed logic models were developed for the Superfund Removal program and Oil program to facilitate the development of new outcome measures. EPA has also determined that "compliance" with the FRP and SPCC regulations means that a facility is found to be in compliance with the regulatory requirements at the time of an inspection (rather than coming into compliance later in the year).

As a result of the PART process, both the Superfund Removal program and the Oil program have annual, long-term and efficiency measures for which they must report. Those measures are outlined below.

Annual Output Measures and FY 2009 targets:

- Removal: Voluntary removal actions overseen by EPA and completed (target 130).
- Removal: Superfund-lead removal actions completed (target:195).
- Oil: Compliance rate of inspected facilities subject to Spill Prevention, Control and Countermeasure (SPCC) regulations (target: 58%).
- Oil: Compliance rate of inspected facilities subject to Facility Response Plan

(FRP) regulations (target: 82%).

Long-term Output Measures:

- Removal: Total completed voluntary removal actions overseen by EPA.
- Removal: Total completed Superfund-lead removal actions.
- Oil: Gallons of oil spilled to navigable waters by facilities subject to the FRP regulations.
- Oil: Compliance rate of all facilities subject to FRP regulations.

Efficiency Measures:

- Removal: Superfund-lead removal actions completed annually per million dollars.
- Oil: Gallons of oil spilled to navigable waters per million program dollars spent annually on prevention and preparedness at FRP facilities.

During FY 2008, potential new outcome measures will be pilot tested for both the Superfund Removal and Oil programs.

SUPPORTING CHEMICAL ACCIDENT PREVENTION, PREPAREDNESS, AND RESPONSE AT THE LOCAL AND STATE LEVELS
Goal 4: Healthy Communities and Ecosystems
Subobjective 4.1.2: Reduce Chemical Risks at Facilities and in Communities

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA, also known as Title III of the Superfund Amendments and Reauthorization Act), created requirements for state and local planning and preparedness for chemical emergencies, and for public access to information concerning potential chemical hazards. State Emergency Response Commissions (SERCs) establish Local Emergency Planning Committees (LEPCs) that use information about chemicals in the community to develop comprehensive emergency plans. In addition, tribes can establish Tribal Emergency Response Commissions (TERCs). There are more than 3,000 LEPCs nationwide. EPA has supported this program with guidance, technical assistance, and some limited grants. EPA also worked with the National Oceanic & Atmospheric Administration (NOAA) to develop and provide the Computer-Aided Management of Emergency Operations (CAMEO) software to these committees free of charge.

In 1990, section 112(r) of the amended Clean Air Act (CAA) established requirements regarding the prevention and detection of accidental releases of hazardous chemicals. The Risk Management program established under those requirements is an extension of the EPCRA planning and preparedness programs. Facilities that handle certain quantities of regulated substances must develop risk management plans (RMPs) and submit them to EPA. In turn, EPA makes RMPs available to state agencies, LEPCs, and the public. Facilities first submitted RMPs in 1999 and updates are required at least every 5 years and more frequently as changes are made at the facility.

RMPs must include the following: an assessment of potential off-site consequences of an accidental release from a facility, a history of releases that have occurred at the facility, a program to prevent accidental releases and an emergency response program that is coordinated with the LEPC in the area where the facility is located.

EPA, working with states, tribes, local communities, industry, and other Federal agencies, oversees these programs with the perspective that:

- Operators of facilities who have hazardous chemicals are primarily responsible for the safe handling of those chemicals; and,

- State, tribal and local governments (as well as the community) play a critical role in risk reduction as well as mitigating the effects of chemical accidents.

In order to continue to assist state, local and tribal governments and industry in reducing the risks from chemical accidents or mitigating the effects of those accidents should they occur, EPA will:

- Continue to provide guidance, tools, and technical assistance to states, tribes, local communities, and industry to better enable them to reduce risk;

- Analyze existing RMP data as well as data gathered from audits to understand potential chemical risks and the causes and effects of releases; and

- Assist states, tribes, local communities, and industry in understanding how these chemical risks could affect communities, and how to reduce risk and prepare to address and mitigate risks should a chemical accident occur.

The Clean Air Act requires EPA to establish a system to audit and inspect RMPs. The audit/inspection system is used to continuously assess the quality of risk management programs, gather information on chemical risks, and check compliance with the requirements. All of these elements of the audit/inspection system assist in improving RMPs and reducing chemical risks. In the past, EPA established numerical audit/inspection targets without regard to the level of facility risk. Recently, however, there have been a number of developments relating to high-risk hazardous chemical facilities that warrant increased focus by the Agency on the implementation of accident prevention and emergency planning and response regulations at such facilities.

Section 550 of the Homeland Security Appropriations Act of 2007 required DHS to publish interim final regulations for high-risk chemical facilities. The Act required regulations to establish risk-based security performance standards, vulnerability assessments, and the development and implementation of site security plans for high-risk chemical facilities. In April 2007, DHS published the Chemical Facility Anti-Terrorism Standards (CFATS) in 6 CFR Part 27. In developing the CFATS regulations, DHS relied significantly on the data collected by EPA under the CAA Section 112(r) Risk

Management Program and incorporated the RMP list of chemicals and threshold quantities in its criteria for determining high-risk facilities. EPA believes that having well-implemented risk management programs at such facilities will further the aims of both CAA Section 112(r) and the Homeland Security Appropriations Act.

In March 2007, the U.S. Chemical Safety and Hazard Investigation Board (CSB) published its final report on the March 2005 accident at the BP America refinery in Texas City, Texas. This accident resulted in 15 deaths, 180 injuries, and over $1.5 billion in financial losses. The CSB investigation report recommended among other things that the Occupational Safety and Health Administration (OSHA) implement a national emphasis program for all oil refineries to focus on factors that caused or contributed to the BP accident. In response, OSHA has committed to conduct comprehensive Process Safety Management (PSM) inspections at all PSM-regulated refineries in Federal OSHA States over the next two years and to encourage states that administer their own OSHA plan to implement a similar emphasis program.

In view of these developments, EPA will focus the audit/inspection system under CAA Section 112(r) on high-risk chemical facilities. Therefore, Regions should consider the following factors in focusing their compliance monitoring activities:

- Facilities whose reported RMP worst-case scenario population exceeds 500,000 people;
- Facilities holding any RMP-regulated substance on site in an amount more than 10,000 times the RMP threshold quantity for the substance;
- Facilities whose reported RMP worst-case scenario endpoint distance equals or exceeds 25 miles;
- Facilities that have had one or more significant accidental releases within the previous five years; and,
- Other facilities where information possessed by the Regional office indicates that the facility may be high-risk.

Typically, oil refineries are expected to be among the facilities warranting focus. Under GPRA, EPA has set as a strategic target to improve by ten percent by 2011 the 2007 baseline capabilities of LEPCs to prevent, prepare for, and respond to chemical emergencies. EPA will collect information from LEPCs during 2007 to establish the baseline.

EPA also collects information on the number of RMP audits and/or facility inspections completed each year. The performance target for the number of RMP audits/inspections is 400 per year. In FY 2006, EPA and delegated states conducted 637 field audits/inspections and, in FY 2007, conducted 628 audits/inspections. Under GPRA, EPA has set the following three strategic targets for the RMP program:

- By 2011, continue to maintain the RMP prevention program and further reduce by 5 percent the number of accidents at RMP facilities (the baseline is an annual average of 340 accidents, based on RMP program data through 2003).

- By 2011, reduce by 5 percent the consequences of accidents at RMP facilities as measured by injuries, fatalities, and property damage (the baseline is an annual average of 358 injuries, 13 fatalities, and $143.5 million in property damage at RMP facilities from 1995-2003).

- By 2011, vulnerability zones surrounding RMP facilities will be reduced by 5 percent from the 2004 baseline, which will result in the reduction of risk for more than four million people in the community (the 2004 baseline is 1,086,428 square miles of cumulative area of RMP facility vulnerability zones).

EPA Regions are not required to provide data annually relative to these strategic targets. EPA will analyze data in the RMP database to determine progress toward these targets and the status of progress in 2011.

Performance goal and target for FY 2009:

- Number of risk management audits/inspections completed (target 400).

Useful websites:

Office of Emergency Management http://www.epa.gov/oem
National Response Team (NRT) http://www.nrt.org

Brownfields Cleanup and Land Revitalization Program

Goal 4: Healthy Communities and Ecosystems
Subobjective 4.2.3: Assess and Clean Up Brownfields

EPA's Brownfields program will continue to facilitate the cleanup, redevelopment and restoration of brownfields properties. Under the Brownfields Law (Public Law 107-118, "Small Business Liability Relief and Brownfields Revitalization Act"[7]), brownfields are defined (with certain exclusions) as real properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Brownfield properties include, for example, abandoned industrial sites, drug labs, mine-scarred land, or sites contaminated with petroleum or petroleum products. Through its Brownfields program, EPA will continue to provide for the assessment and cleanup of these properties, to leverage redevelopment opportunities, and to help preserve green space, offering combined benefits to local communities.

Strategic Targets:

Working with state, tribal, and local partners, promote the assessment, cleanup, and sustainable reuse of brownfields properties.

- By 2011, conduct environmental assessments at 13,900 (cumulative) properties, make an additional 1,125 acres of brownfields ready for reuse, and leverage $12.9 billion (cumulative) in assessment, cleanup, and redevelopment funding at brownfields properties.

Performance Goals for FY 2009:

- Number of Brownfields properties assessed (target: 1,000).
- Number of Brownfields properties cleaned up using Brownfields funding (target: 60).
- Acres of Brownfields property made ready for reuse (target: 225).
- Number of jobs leveraged at Brownfields sites (target: 5,000).
- Billions of dollars of cleanup and redevelopment funds leveraged at Brownfields sites (target: $0.9).
- Number of tribes supported by Brownfields cooperative agreements (no target).

Brownfields Assessment, Cleanup, Revolving Loan Fund, and Job Training Grants

EPA will continue to provide Assessment, Cleanup, Revolving Loan Fund, and Job Training grants to communities. Brownfields Assessment grants provide funding to inventory, characterize, assess, and conduct planning and community involvement activities related to brownfields sites. Brownfields Revolving Loan Fund grants provide

[7] Signed in January 2002, for more information on Public Law 107-118 go to http://www.epa.gov/swerosps/bf/sblrbra.htm .

funding for a grantee to capitalize a revolving loan and for a grantee to make subgrants to carry out cleanup activities at brownfield sites. Brownfields Cleanup grants will fund cleanup activities at brownfield sites owned by grant recipients. EPA also will provide funding to create local environmental job training programs to enhance the economic benefits, derived from brownfield revitalization efforts, to the community.

EPA will publish proposal guidelines, solicit proposals, conduct a national competition, announce, and award Assessment, Cleanup, Revolving Loan Fund, and Job Training grants. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other Federal agency representatives will assess how well the proposals meet the selection criteria outlined in the statute and the proposal guidelines. Final selections will be made by EPA senior management after considering the ranking of proposals by the evaluation panels. The statute requires that funds be directed to the highest ranking proposals.

- Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, Cleanup and Job Training Grants are available at: http://www.epa.gov/brownfields/applicat.htm

Following award, EPA will assist grantees in achieving specific objectives as agreed upon in the project work plan. EPA will conduct post award monitoring activities to ensure the successful implementation of projects. Grant terms and conditions require grantees to complete Property Profile Forms or Job Training Forms. Using these forms, EPA will collect information on property acreage, assessment completion date, whether cleanup is necessary, cleanup completion date, status of institutional controls, leveraged jobs, and leveraged dollars. In addition, the program will use Property Profile Forms to collect information on the new performance measure, "Acres Made Ready for Reuse."

- Reporting forms are available at: http://www.epa.gov/brownfields/pubs/rptforms.htm

Recipients of Assessment, Cleanup, Revolving Loan Fund Grants, and Job Training Grants will be able to submit Property Profile Form and/or Job Training Reporting Form data electronically using the Assessment, Cleanup, and Redevelopment Exchange System (ACRES). EPA Regions will verify data submitted by grantees in the ACRES system. Grantees that do not have capability for electronic reporting will be able to submit paper forms.

Brownfields State and Tribal Response Programs Grants

EPA will continue to work in partnership with state and Tribal programs to address brownfield properties. The Agency will provide states and tribes with tools, information, and funding they can use to develop response programs that will address environmental assessment, cleanup, characterization, and redevelopment needs at sites contaminated with hazardous wastes and petroleum. The Agency will continue to encourage the empowerment of state, Tribal, and local environmental and economic development

officials to oversee brownfield activities and the implementation of local solutions to local problems. EPA will publish an annual guidance regarding the criteria for state funding.

- Grant Funding Guidance for State and Tribal Response programs (CERCLA) Section 128(a) is available at: http://www.epa.gov/swerosps/bf/state_tribal.htm#grant

Following award, EPA will assist grantees in achieving specific objectives as agreed upon in the project work plan. EPA will conduct post-award monitoring activities to ensure the successful implementation of projects. Grantees will complete Property Profile Forms to document completion of site specific assessments and cleanups. Using these forms, EPA will collect information on property acreage, assessment completion date, whether cleanup is necessary, cleanup completion date, and the status of institutional controls. In addition, the program will use Property Profile Forms to collect information on the new performance measure, "Acres Made Ready for Reuse."

- Reporting forms are available at: http://www.epa.gov/brownfields/pubs/rptforms.htm

State and tribal response program grants contribute to the Brownfields program overall accomplishments. The Property Profile Forms submitted by state and tribal grantees for site-specific assessments and cleanups, conducted with CERCLA 128 funds, contribute to the "Properties Assessed" and "Properties Cleaned Up" measures. There are no separate state or tribal specific targets for the "Properties Assessed" and "Properties Cleaned Up" measures. Therefore, for the state template measures in Appendix 6, the Brownfields National Program will report out the overall program accomplishments. Regions should not complete the State grant template and should not set state- or tribal-specific targets.

Brownfields and OMB's Program Assessment Rating Tool (PART)

The Brownfields program received a PART evaluation in 2003. At that time, the program received an "adequate" rating. The program then prepared and is currently implementing an improvement plan. The improvement plan addresses program performance and efficiency measures, information collection procedures, and program evaluation.

Beginning in FY 2008, the Brownfields program will report on a new efficiency measure, "Acres of brownfields properties made ready for reuse per million dollars of public and private assessment and cleanup funding invested."

- Information on the Brownfields program's PART evaluation and improvement plan is available at: http://www.whitehouse.gov/omb/expectmore/summary.10001132.2005.html

- Information on EPA's 2006-2011 Strategic Plan is available at:

http://www.epa.gov/ocfo/plan/plan.htm

Cross-Program Revitalization Measures

The Brownfields program has implemented the Cross-Program Revitalization Measures supporting OSWER's effort to promote and communicate cleanup- and revitalization-related accomplishments and associated benefits to society. The program is using Property Profile Form data to report on the Universe Indicator (properties and acres where assessment or cleanup reported complete for the first time under a Brownfields grant) and Types of Uses Indicator (Greenspace, Residential, Commercial, Industrial, and Mixed Use). The program is also using the Property Profile Form to collect information on the "Ready for Reuse" measure (based on status of cleanup and institutional controls (ICs)) which equates to both "Protective for People under Current Conditions" (PFP) and "Ready for Anticipated Use" (RAU) measures.

- Information concerning OSWER's Cross-Program Revitalization Measures may be found at: http://www.epa.gov/swerrims/landrevitalization/docs/cprmguidance-10-20-06covermemo.pdf

The Office of Brownfields and Land Revitalization's Environmental Justice Action Plan (The OBLR EJ Action Plan)

The objective of the OBLR EJ Action Plan is to effectively integrate environmental justice into all EPA strategic planning, program policies, and daily operational activities that results in a measurable benefit to the life of impacted communities. OBLR's efforts to address environmental justice are directly supportive of EPA's larger goals to address Goal 4: Healthy Communities and Ecosystems, Objective 4.2: Communities, Sub-objective 4.2.3: Assess and Clean up Brownfields.

For Calendar Year 2008-2009, the Office of Brownfields and Land Revitalization established the following goals/activities with corresponding outputs and outcomes related to:

1) Training, Research, and Technical Assistance
    - enhanced understanding of health risks associated with methamphetamine-contaminated brownfield sites on tribal lands and training for at least 100 tribal representatives on methamphetamine health-related exposure risks at abandoned labs, assessment, and cleanup methods;
    - outreach and education to community-based organizations and community development corporations in socio-economically disadvantaged communities throughout New Jersey, New York, and Pennsylvania regarding the resources needed and economic feasibility of undertaking brownfields redevelopment projects;
    - technical assistance to communities experiencing issues associated with vapor intrusion, institutional controls, and concerns related to siting schools on brownfields;

- training and education to at least 10 communities interested in developing brownfields job training programs;
- development of a hedonic pricing model used to identify the contribution of social, economic, and environmental changes to property values in low-income and minority communities with significant brownfields.[8]

2) Program Assessment
   - correlate existing brownfields assessment, targeted brownfields assessment, cleanup, and revolving loan fund geographic data with U.S. Census demographic data to better understand the socio-economic composition of communities who have received brownfields funding and subsequent future targeted outreach efforts.

3) Direct Assistance to Environmental Justice Communities to Conduct Targeted Brownfields Assessments (TBAs)
   - In partnership with the Community Action for a Renewed Environment program (CARE), provide targeted brownfields assessment (TBA) funding to Level I CARE grantees to assist in identifying, inventorying, and assessing brownfield properties in approximately 10 communities throughout the United States.

[8] With regard to the housing market: the price of a property is determined by the characteristics of the house (size, appearance, features, condition) as well as the characteristics of the surrounding neighborhood (accessibility to schools and shopping, level of water and air pollution, value of other homes, etc.) The hedonic pricing model is used to estimate the extent to which each factor affects the price.

RCRA Waste Management Programs

In FY 2009, the RCRA program will have two main areas of focus – safe waste management and resource conservation. In support of safe waste management, EPA will continue existing program obligations such as ensuring the safe management of hazardous and non-hazardous waste and cleaning up hazardous and non-hazardous releases. The RCRA hazardous waste program is also close to completing a major effort to bring corrective action sites under control, and will be focusing on effectively moving these sites toward final cleanup.

As the hazardous waste program completes the issuance of initial permits to the majority of facilities, the number of new facilities needing permits has been decreasing. Therefore, we will continue to increase emphasis on ensuring facilities have updated controls to prevent releases. Under EPA's 2006-2011 Strategic Plan, EPA will prevent releases at an additional 500 RCRA hazardous waste management facilities by implementing initial approved controls or updated controls. Beginning in FY 2009, EPA will combine measures regarding initial approved controls and updated controls under one measure to align with the Strategic Plan.

For both hazardous and non-hazardous wastes, the RCRA program will continue to work with tribes on a government-to-government basis to foster improved waste management practices. OSWER will continue to provide technical assistance, as resources permit, to our state partners and to other federal agencies, in areas where Agency expertise can be of help, particularly regarding the disposal of wastes and homeland. In addition, the RCRA program will continue to work to meet the commitments made as part of the Special Regional Priority for the Mexico Border area.

Under our resource conservation efforts, EPA will continue to focus on effective materials management and increased efforts regarding municipal solid waste, non-hazardous industrial materials, and chemicals reduction. We will build upon the successful efforts of the Resource Conservation Challenge (RCC)[9] to meet the objectives of the 2020 Vision Paper (Beyond RCRA) to reduce the generation of wastes, increase recycling of industrial materials and municipal solid waste (MSW), and look at sustainable use of all resources.

The following information provides strategic targets, direction, and priorities for the FY 2009 operating year and is organized according to the Agency's Strategic Plan sub-objectives.

Goal 3: Land Preservation and Restoration
Subobjective 3.1.1: Reduce Waste Generation and Increase Recycling

The RCRA program will emphasize its strategy to conserve resources, reduce waste, and reduce priority chemicals. The RCC, one of OSWER's Office of Solid Waste's (OSW's)

[9] For more information concerning the RCC, please see http://www.epa.gov/epaoswer/osw/conserve/index.htm

highest priorities, continues to be a principal mechanism for achieving these objectives. OSW's specific commitments for the RCC are identified in the *Resource Conservation Challenge (RCC) OSW Workplan/ Deliverables for FY 2008.* Many of the activities described in the workplan will continue into FY 2009. Regions will be expected to champion and support the four national RCC focus areas:

Recycling of MSW;
Reusing and recycling of electronics;
Reusing and recycling of industrial materials; and
Reducing priority chemicals; (covered under sub-objective 5.2.1);

Recycling of MSW

Under EPA's 2006-2011 Strategic Plan, we maintained our goal of recycling 35% of municipal solid waste by 2008. OSW and the Regions have identified a new long-term 2011 GPRA goal of 80 billion pounds, to replace the current 35% MSW recycling goal. This goal is composed of an annual recycling target of 20 billion pounds over a four year period (2008-2011). This new, long-term goal will more directly reflect EPA's influence, resources, and contributions to the nation's goal of increasing municipal solid waste recycling.

The new MSW measure also reflects our intent to put forth goals which are reflective of MSW programs at both the national and the regional level. Regional commitments will be tracked in ACS under the measure, "Billions of pounds of MSW reduced, reused or recycled." Currently, EPA is working through issues related to information collection activities to support reporting results of the WasteWise program. The outcome of that effort could impact measures used to track the progress of the RCC program.

EPA Regions and OSW will continue to focus their primary MSW recycling efforts on the three targeted materials: paper, organics (food waste and green yard waste), and packaging/containers. EPA's MSW Recycling Implementation Plan includes specific activities each Region will commit to undertake and identifies approaches and tools to support these activities. For FY 2009, OSW is requesting that all Regions identify ACS commitments in the area of MSW recycling that contribute toward our national recycling and energy conservation and greenhouse gas reduction goals.

EPA Regions should base their FY 2009 ACS MSW recycling commitments primarily on what they expect to accomplish through their Full Time Equivalents (FTEs) and extramural dollars. WasteWise partner accomplishments, as outlined in the WasteWise apportionment paper, also may be factored into ACS MSW recycling commitments. Regions should continue general outreach efforts to promote MSW recycling and implement the activities listed in the MSW Recycling Implementation Plan. Regions also should work closely with states to support and complement state and local efforts.

In these key areas, we have identified, or have started to identify, targets and measures that will demonstrate the positive benefits of this program. OSWER will be tracking a

new measure in FY 2009 to reflect the energy conservation and greenhouse gas reduction benefits associated with our efforts under the RCC. This new measure is expressed in terms of British thermal units (BTUs) of energy conserved and metric tons of carbon equivalents (MTCE) of green house gas emissions reduced by the RCC. The FY 2009 target is 11.84 million metric tons of MTCE emissions reduced (or, equivalently, 43.43 million metric tons of MTCO2E [GHG] emissions reduced) and 281.8 trillion BTUs of energy saved.[10] EPA Regions and HQ will continue to work together to determine the best steps to take to conserve resources and divert more materials to reuse and recycling.

Electronics Program

The RCC national electronics program focuses on three main goals: environmental design and procurement, operation and maintenance (extending product life), and reuse and recycling. EPA has developed several programs which address these goals. OSW will continue to expand our partnership program, Plug-In to eCycling, increasing on an annual basis the pounds of electronics recycled nationwide and strengthening our outreach for recycling of electronics equipment. EPA will continue to support the successful launch of its cell phone campaign. Encouraging widespread use of the EPEAT tool is a key component of a vigorous electronics reuse and recycling program. In 2009, Regions will continue to strive to achieve the gold rating under the Federal Electronics Challenge.

Industrial Materials Reuse and Recycling Program

OSW, working with the Regions, developed an industrial materials reuse and recycling implementation plan which we expect to finalize in 2008. The Regions and Headquarters completed the Industrial Materials Implementation Plan in spring of 2008. This is a dynamic document and the Regions will be working on the priorities identified in the Plan throughout 2008 and 2009. We also are working together to improve our construction and demolition materials data and measures. The industrial materials reuse and recycling program will continue to focus on coal combustion products (CCPs), construction and demolition (C&D) materials, and foundry sands. Recycling these materials can conserve resources, reduce energy use, reduce greenhouse gas emissions, reduce costs, and extend the life of landfills. Regions have developed effective working relationships with their state counterparts and should continue to foster collaborative efforts to share information and data and to coordinate among state programs. EPA will continue to partner with the Association of State and Territorial Solid Waste Management Officials' Beneficial Use Task Force, and as appropriate with stakeholders such as the Industrial Resources Council (IRC), the industrial materials component of the National Recycling Coalition.

Measuring and reporting on success is a critical component of any credible program. EPA established two FY 2011 GPRA goals in its strategic plan: increase the use of coal combustion ash to 50%; and, increase the reuse and recycling of C&D materials to 65%.

[10] Some of the GHG benefits can be attributable to energy production.

We will track progress for the coal ash goal at the national level. We have updated the construction and demolition materials characterization report and have asked several stakeholders for their review. The reviewers identified a number of potential improvements. We will finalize this report in 2008 and plan to update it every five years.

We have reviewed existing state data to determine if it can be used to provide a national measurement. We will continue to work with this data and define C&D national measurement methodology. At that time, OSW and the Regions will decide on a viable approach to measuring and reporting C&D materials reuse and recycling during FY 2009.

During FY 2009, Regions should build on their prior successes by continuing to increase the reuse and recycling of industrial materials in an environmentally sound manner. Regions should focus their efforts on two programs: the Industrial Materials Construction Initiative, which is a comprehensive venue for fostering reuse and recycling of all three of EPA's focus materials; and the Coal Combustion Products Partnership (C2P2).

Performance Track

OSWER continues to support Performance Track[11], an Agency-wide priority innovation program that recognizes and rewards private and public facilities that demonstrate top environmental performance. OSWER has worked with OPEI to develop RCRA incentives[12] for member facilities. RCRA programs are encouraged to promote adoption of these incentives by the states and assist in their implementation. OSWER's National Partnership for Environmental Priorities (NPEP), a partnership program that targets priority chemical reduction, has worked with Performance Track to form the National Challenge Goal for Priority Chemicals. Under this challenge, Performance Track members declaring a 10% reduction goal for one or more priority chemicals can use that single goal to count as two of four goals needed to demonstrate continuous environmental improvement over a three year period.

In addition, OSWER has collaborated with Performance Track to create a community land revitalization indicator. Performance Track members can also select the community land revitalization indicator as one of its continuous environmental improvement goals over a three year period. The Performance Track member invests in a contaminated property (brownfield) cleanup project in the local community, working with partners who have a revitalization plan for that property. Performance Track members do not own or have a financial interest in the selected property.

[11] For more information concerning Performance Track, please see http://www.epa.gov/perftrac/
[12] For more information concerning RCRA Incentives, please see http://www.epa.gov/perftrac/benefits/regadmin/waste.htm

Goal 3: Land Preservation and Restoration
Subobjective 3.1.2: Manage Hazardous Wastes and Petroleum Products Properly

In FY 2009, the permitting program should collectively achieve 100 additional annual accomplishments for initial and updated approved controls. Since all but two states are authorized to issue permits, and because states receive grant funds to implement the RCRA hazardous waste program, Regions must work with states to:

- Update and implement multi-year strategies to meet the FY 2009 annual goal and the FY 2011 strategic goal.
- Update assessments of what is needed for each facility to achieve approved controls and update when each facility is projected to achieve approved controls.
- Consider risk in determining the prioritization of facilities to be addressed in the multi-year strategies.

During FY 2009, Regions should work with the states towards achieving the FY 2011 national strategic target of preventing releases at 500 RCRA hazardous waste management facilities by implementing initial approved controls or updated controls. This should result in getting at least 98% of the facilities on the permitting baseline under approved controls, and updating controls at additional facilities, for a total of 500 facilities between FY 2007 and FY 2011. OSW, in partnership with the Regions and states, will be developing the next generation of strategic goals to demonstrate the magnitude of environmental benefits delivered by the program.

In 2004, OMB assessed the RCRA base program, permits and grants under the PART, which is used to determine the effectiveness of Federal programs. As an outcome of this assessment, a new efficiency measure has been proposed based on: (1) number of facilities with new or updated controls and (2) permit costs and base program appropriations. Calculations for the baseline year 2007 are 2,484 facilities with new or updated controls at a cost of $689.71 million (3.60 facilities per million dollars of program cost) and an efficiency measure target for FY 2008 of a 1 percent improvement from the baseline (3.64 facilities per million dollars).

Regions are to work closely with states to ensure that environmental regulations, applicable Federal environmental justice policies, strategies, tools and training programs are used to adequately address environmental justice concerns. Progress towards RCRA GPRA goals in potential environmental justice communities should advance at least at the same pace as in other communities.

After substantial work by OECA, OSW, and the RCRAInfo V4 Design Team, mandatory financial assurance data elements jointly decided by EPA and states as part of the WIN/Informed process are being added to RCRAInfo and will now become a part of our data system. This information (1) will allow states to coordinate their review of these instruments better, (2) will provide state and national information on the types of instruments used and their providers, and (3) fulfills commitments the Agency has made to the Inspector General and the Government Accountability Office.

Details on the mandatory data elements and data entry were provided to the RCRAInfo users' community in the Consolidated High Level Design Document. These data elements will require states to input information on the financial assurance instruments that are being used by treatment, storage and disposal facilities. The modifications to the data system are expected to be complete in the first quarter of FY 2009. We are requesting that by the end of FY 2009 states will have input information on 75% of the covered facilities. Our current expectation is that data for the remaining facilities will be input by the end of the second quarter of FY 2010.

Tribal Programs

EPA has significant responsibilities related to the safe management of solid and hazardous waste in Indian country. Regions with federally-recognized tribes should devote resources to assisting tribes, consistent with the 2006-2011 EPA Strategic Plan, which established two performance measures. Regions will be expected to achieve the following targets during FY 2009:

- Assist tribal governments to ensure that an additional 16 tribes are covered by an integrated waste management plan approved by an appropriate governing body;
- Assist tribal governments to ensure that an additional 27 open dumps in Indian country and on other Tribal lands are closed, cleaned up, or upgraded.

The Indian Health Service, in collaboration with EPA, customized the IHS Operation and Maintenance Data System (OMDS) database, a subset of the web Sanitation Tracking and Reporting System (w/STARS). The w/STARS database will be the official repository for EPA to hold all data on open dumps on tribal lands. Regions should input data to accurately populate the database during FY 2009.

Furthermore, EPA has recently provided information regarding the elements of an integrated waste management which Regions should use when evaluating what plans should be reflected in the ACS for this performance measure.

Goal 3: Land Preservation and Restoration
Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land

EPA's 2006-2011 Strategic Plan commits the RCRA Corrective Action Program to three long-term GPRA goals:

- By 2011, control all identified unacceptable human exposures from site contamination to health-based levels for current land and/or groundwater use conditions at 95 percent of all high-National Corrective Action Prioritization System (NCAPS)-ranked sites on the 2020 Corrective Action Universe.
- By 2011, control the migration of contaminated groundwater at 80 percent of all high-NCAPS sites on the 2020 Corrective Action Universe.
- By 2011, complete construction of final remedies at 22 percent of the entire 2020

Corrective Action Universe.

Annual National Targets

The President's FY 2009 Annual Plan and Congressional Justification commits the RCRA Corrective Action Program to annual totals for the same three measures. While annual targets also apply to the entire 2020 Universe, they will not distinguish between facilities based on NCAPS rankings. National FY 2009 targets are listed below:

	2020 Universe (facilities)	Human Exposures Under Control (CA725)	Groundwater Migration Under Control (CA750)	Remedy Construction (CA550)
R1	277	N/A	N/A	N/A
R2	334	N/A	N/A	N/A
R3	601	N/A	N/A	N/A
R4	557	N/A	N/A	N/A
R5	860	N/A	N/A	N/A
R6	414	N/A	N/A	N/A
R7	198	N/A	N/A	N/A
R8	98	N/A	N/A	N/A
R9	317	N/A	N/A	N/A
R10	90	N/A	N/A	N/A
Total	**3,746**	**60**	**60**	**100**

Annual Regional Targets

Annual regional targets for the RCRA Corrective Action Program's three measures are set through the Annual Commitment System (ACS). Regional targets for FY 2009 corresponding to the annual national targets above must be finalized by September 2008.

Further Information

The 2020 Universe includes *all* 3,746 sites expected to need corrective action. Program goals from 2009 onward will track human exposures, the migration of contaminated groundwater, and final remedy construction at all 3,746 sites. The ultimate goal is to have final remedies constructed at 95 percent of all corrective action sites by the end of FY 2020.

OECA encourages the Regions to use enforcement authorities and tools where appropriate to address the aforementioned program goals. In addition, the Superfund and RCRA Corrective Action enforcement program commitments for the financial assurance priority are included in OECA's portion of the annual commitment system.

Each Region should work with states to update their strategies to achieve 2009 targets once the 2011 goals are revised. The strategies should be facility-specific, and should

describe how available resources will be used to achieve the goals. The strategy should include plans for frequent contact with states to discuss their progress in meeting the 2009 goals.

Each Region should also work with their states to promote making RCRA ready for anticipated use determinations to support OSWER's Cross-Program Revitalization measure. (See "Guidance for Documenting and Reporting RCRA Subtitle C Corrective Action Land Revitalization Indicators and Measures" at www.epa.gov/correctiveaction.)

The annual target for increasing the efficiency of the RCRA Corrective Action program is three percent. Each Region should work with its states to increase the number of final remedy components constructed during FY 2009 and future years by three percent per year, presuming that costs remain constant. The number of final remedy components constructed will be measured from RCRAInfo as the total number of area-specific and facility-wide construction completions (CA550) completed during 2009.

Regions will support and work closely with their states to ensure that environmental regulations, applicable Federal environmental justice (EJ) policies, strategies, tools and training programs are used to adequately address EJ concerns. Progress towards RCRA GPRA goals in potential EJ communities should advance at least at the same pace as in non EJ areas. Regions should work with their states to help develop and offer innovative approaches that will empower citizens' groups to ensure successful voluntary cleanups.

PCBs

In an effort to improve program and administrative efficiencies, the management of the PCB cleanup and disposal program was transferred from EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) to the Office of Solid Waste and Emergency Response (OSWER) in FY 2008. OPPTS is continuing to oversee PCB issues relating to use and manufacturing, and OSWER is managing the PCB cleanup and disposal program under the requirements of the Toxic Substances Control Act (TSCA) and its regulations. As a result, OSWER will now be issuing disposal approvals that are designated by regulation to be issued by EPA headquarters (e.g., for mobile PCB treatment units operating in more than one region). During FY 2009, Regions are expected to continue to issue approvals for PCB cleanup and disposal as required under 40 CFR Part 761. OSW is assessing the current ACS measures and will be working with the Regions to update for FY 2009.

Goal 5: Compliance and Environmental Stewardship
Subobjective 5.2.1: Prevent Pollution and Promote Environmental Stewardship

Priority Chemical Reductions

The National Partnership for Environmental Priorities (NPEP) is the RCRA program focused on the waste minimization of potentially hazardous chemicals and program progress is tracked by a GPRA goal. NPEP is also a key component of the Resource

Conservation Challenge. The strategic goal, as stated in the 2006 – 2011 EPA Strategic Plan, is: *by 2011, reduce 4 million pounds of priority chemicals from waste streams as measured by National Partnership for Environmental Priorities (NPEP) contributions, Supplemental Environmental Projects (SEPs), and other tools used by EPA to achieve priority chemical reductions.*

In FY 2009, EPA will achieve NPEP priority chemical reduction goals by identifying for partnership and enrolling individual facilities, and when possible multiple facilities, in industrial, manufacturing, federal facilities, and municipal, and other sectors which are responsible for the highest volume of priority chemicals and/or highest risk if released to the environment. Source reduction is the preferred means of chemical reduction, but recycling is an acceptable alternative when viable source reductions options have been eliminated. Contributions toward the GPRA goal can be achieved by recruiting several small generators as well as by targeting large volume generators.

Regional and state recruiters who enroll partners in NPEP will contribute to the national priority chemical goal and may contribute to additional regional or state specific chemical reduction goals. Decisions regarding chemicals (in addition to the 31 priority chemicals) selected for reduction are based on the chemical waste minimization potential, risk, and generation trends as well as volume of chemical released to the environment. Information on the specific actions and means by which reductions are achieved is provided in the RCC Priority Chemical Action Plan. At this time there are no specific GPRA goals associated with the identification of other chemicals of national concern. However, the priority chemicals list is currently being reevaluated as part of the 2009-2014 strategic planning process.

The projected FY 2009 national goal is to reduce priority chemicals by 1,000,000 pounds. This may be adjusted, depending on FY 2008 partner commitments. Based on targeting information provided by OSW, and other available information, Regions will establish specific annual regional reduction goals, identifying the number of pounds of reductions each Region will seek to achieve each year to reach the 2011 Priority Chemical GPRA goal. Regional annual priority chemical reduction targets will be entered into the ACS.

In addition, the RCRA program has committed to targeted cost efficiencies associated with reducing priority chemicals through its OMB efficiency measure, in which: *Efficiency is measured by the pounds of priority chemicals reduced from the environment per federal government dollar spent. Federal spending consists of program implementation costs including, FTE and contract spending.*

The program has committed to achieving 0.6 pounds of priority chemicals removed per dollar spent.

For further information, please see the following websites:
http://www.epa.gov/npep
http://www.epa.gov/rcc/action-plan/act-p3.htm
http://www.epa.gov/epaoswer/osw/conserve/priorities/chemical.htm

Schools Chemical Cleanout Campaign (SC3)

The Schools Chemical Cleanout Campaign (SC3) is a part of RCC. The Campaign strives to facilitate: (1) removal of legacy accumulations of dangerous chemicals from K-12 schools; (2) implementation of strong, sustainable chemical management in schools to prevent the development of accumulations of chemicals in the future; and, (3) raising awareness of the problem.

During FY 2006, EPA established a multi-Agency Steering Committee in collaboration with the Department of Education, Agency for Toxic Substances and Disease Registry, Bureau of Indian Affairs, Consumer Product Safety Commission, and Centers for Disease Control and Prevention and developed a multi-Agency strategy to address the issue. In FY 2007 and 2008, EPA made progress on building a national campaign that includes a public/private network to make responsible chemical management available to all schools across the nation. The network partnerships will help us to create sustainable chemical management programs in schools that ultimately decrease the number of injuries and school days lost due to poor chemical management and chemical spills, which is likely to improve the learning environment in K-12 schools across the nation.

While building these partnerships in FY 2009, EPA and its Federal partners will place their effort on the following goals and objectives:

- Gathering baseline data and raising national awareness of the potential dangers of chemical accumulations in K-12 schools: better characterize the scope of the problem; communicate with stakeholders and engage them in addressing the problem; and coordinate Federal agency programs to provide a clear, unified SC3 message.

- Facilitate Chemical Cleanout and prevention of future chemical management problems: improve access to information resources (tools, manuals, criteria) and provide technical assistance; institutionalize good chemical management practices, including training, purchasing, and planning; and recognize successes through SC3 awards.

In FY 2009, EPA headquarters and the Regions will continue to analyze the state of chemical management in K-12 schools and develop tools to raise awareness and educate school and industry partners about the issues surrounding chemical management.

To bring this information, expertise, and resources to as many school districts as possible across the country, EPA headquarters and Regions will focus their efforts on developing and strengthening partnerships to build this national network. Regions will be the key to making this vision a reality. As we sign on partners who want to help schools, it will be the regional knowledge of the local landscape that will help match partners with school districts lending their expertise to grow the campaign and assure that it complements and embraces other Agency Healthy School Environments Initiatives. Regions will also take the lead in identifying and targeting local industries that have the ability to assist with the

Campaign. Success in FY 2009 will be measured by the number of partnership agreements established, schools affected, and sustainable practices established.

Underground Storage Tanks Program

Goal 3: Land Preservation and Restoration
Subobjective 3.1.2: Manage Hazardous Wastes and Petroleum Products Properly (UST)
Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land (LUST)

Program Overview

The purpose of the Underground Storage Tank (UST) program is to protect groundwater resources from contamination caused by releases of regulated substances (typically petroleum-based motor fuels and their additives) from leaking underground storage tanks (LUSTs).[13] The program is designed to implement a dual approach for achievement of this goal: the first is to prevent and detect releases from UST systems, and the second is to clean up contamination from releases that do occur. Both of these program elements are part regulatory and part block/formula grant, and they work in concert with one another as an integrated whole. The Office of Underground Storage Tanks (OUST) was created in 1985 as the result of the Hazardous and Solid Waste Act Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) of 1976. The HSWA added Subtitle I, which directs EPA to develop a comprehensive program for the regulation of UST systems "as may be necessary to protect human health and the environment."

The Underground Storage Tanks program provides states[14] and tribes with financial and technical assistance and assists with capacity building through training and state program approval. Only for the relatively few USTs on Indian country does EPA directly implement the program. Supported by grants and cooperative agreements, state agencies implement the program for the vast majority of USTs. Except for a small core of headquarters personnel, Federal UST program personnel are geographically dispersed to EPA's 10 Regional offices and it is Regional personnel who both directly implement and enforce the program at the local level (on tribal lands) and also provide technical, logistical, and administrative support to the state programs in their region.

Regulatory Framework

Regulations promulgated by EPA in 1988 establish the regulatory framework for achieving the program's goal. Regulations at 40 CFR Part 280, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks", include both technical standards and financial requirements for owners and operators of UST systems and are broken down into eight subparts:

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[13] Thirty-nine states identify leaking underground storage tanks as one of the top 10 sources of groundwater contamination. (EPA Office of Water 305(b) report, Figure 6-5, *http://www.epa.gov/owow/305b/*).
[14] The term “states” as used in this guidance refers collectively to UST programs implemented by the individual states, territories, and the District of Columbia, see the definition of “State” in the Solid Waste Disposal Act (SWDA) of 1976 (42 U.S.CA. 6903 at *http://uscode.house.gov/search/criteria.shtml*).

1. Program Scope and Interim Prohibition (Subpart A);
2. UST Systems: Design, Construction, Installation, and Notification (Subpart B);
3. General Operating Requirements (Subpart C);
4. Release Detection (Subpart D);
5. Release Reporting, Investigation, and Confirmation (Subpart E);
6. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances (Subpart F);
7. Out-of-Service UST Systems and Closure (Subpart G); and
8. Financial Responsibility (Subpart H).

State programs that have regulations that are no less stringent than Federal regulations can be approved to operate in lieu of the Federal program. The procedures for approving such state programs are found at 40 CFR Part 281: "Approval of State Underground Storage Tank Programs". These regulations are broken down into six subparts:

1. Purpose, General Requirements and Scope (Subpart A);
2. Components of a Program Application (Subpart B);
3. Criteria for No Less Stringent (Subpart C);
4. Adequate Enforcement of Compliance (Subpart D);
5. Approval Procedures (Subpart E);
6. Withdrawal of Approval of State Programs (Subpart F).

Thirty-six states, Puerto Rico, and the District of Columbia have received approval for their UST programs. The remaining 14 states and 4 territories implement UST programs under their own authorities in cooperation with EPA.

Program Funding

EPA provides funds to help states implement their programs through grants or cooperative agreements under the authorities and appropriations described below. Specific activities eligible for funding are determined through discussions between the states and tribes and the EPA Regional offices based on national guidance[15] issued by OUST for implementation of the Energy Policy Act.

In FY 1999, through PL 105-276, Congress gave EPA authority to provide assistance agreements to federally-recognized tribes to develop and administer underground storage tank (UST) prevention programs and leaking underground storage tank (LUST) cleanup programs. In general, such assistance agreements can be used for the same purposes for tribes as they are used for states, however, EPA does not have authority under RCRA to approve tribal programs to operate in lieu of the Federal program. Examples of eligible projects that can be conducted under these grants include the development and administration of an UST or LUST program, conducting an unregistered tank survey, providing leak detection and installer training, and cleaning up releases.

[15] Funding provided to states must be expended in accordance with grant guidelines (see *http://www.epa.gov/swerust1/fedlaws/epact_05.htm*) EPA issued to implement Title XV, Subtitle B of the Energy Policy Act of 2005 (see *http://www.epa.gov/swerust1/fedlaws/publ_109-058.pdf*).

In 2004, through PL 107-73, Congress gave EPA authority to award cooperative agreements to federally-recognized tribes and eligible tribal consortia to assist EPA in implementing federal environmental programs in the absence of an approved tribal program. These agreements are called Direct Implementation Tribal Cooperative Agreements (DITCA's) and they provide tribes with the flexibility and opportunity to hire and train environmental staff to effectively manage UST programs, promote compliance, and address specific tribal needs and priorities within EPA's authority for direct implementation.

UST State and Tribal Assistance Grants (STAG) Any STAG funding appropriated in FY 2009 for the UST leak prevention programs will be given as grants under the authorities of the Solid Waste Disposal Act (SWDA) of 1976, as amended by the Superfund Reauthorization Amendments of 1986 (Subtitle I), Section 2007(f), 42 U.S.C. 6916(f)(2); and such additional authority as may be provided for in EPA's annual appropriations acts. For the Tribal Grants: P.L. 105-276. STAG funding is provided in grants and cooperative agreements to assist states, territories, Federally-recognized Indian tribes and Intertribal Consortia that meet the requirements at 40 CFR 35.504, in the development and implementation of underground storage tank (UST) programs.

The UST State Grant program is implemented by regulations at 40 CFR 35.330. There is a 25-percent matching requirement for states under 40 CFR 35.335. There is no matching requirement for grants to tribes or Intertribal Consortia under Public Law 105-276.[16] State matches may include in-kind contributions.

LUST Trust Fund Cooperative Agreements for UST Release Prevention Activities Any LUST funding appropriated in FY 2009 for the UST release prevention programs will be given as grants under the authorities of Section 9011 and other applicable provisions of Subtitle I of the Solid Waste Disposal Act (SWDA) of 1976. This funding will be used in cooperative agreements to the states and tribes to carry out the Energy Policy Act (EPAct) of 2005 provisions related to the prevention of underground storage tank (UST) releases. The cooperative agreements will be for prevention and compliance assurance activities, such as inspections, as well as for enforcement activities related to release prevention. Priority will be given to providing funds to enable the states to meet their responsibilities under Title XV, Subtitle B of the Energy Policy Act of 2005. States that have entered into cooperative agreements with EPA have the authority to inspect and take other compliance and related enforcement actions to prevent releases from USTs. EPA provides financial assistance to tribes to develop and implement programs to manage USTs. This financial assistance program is not eligible for inclusion in Performance Partnership Grants under 40 CFR 35.133. Cooperative agreements are only available to states that have UST programs. Additionally, these cooperative agreements are only available to Federally-recognized tribes and Intertribal Consortia that must meet

[16] See Section 66.804 of the Catalog of Federal Domestic Assistance (CDFA) at *http://12.46.245.173/pls/portal30/CATALOG.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=66.804*

the requirements, as described in the Federal Register Notice, Vol. 67, No. 213, pp. 67181-67183, "Update to EPA Policy on Certain Grants to Intertribal Consortia."

LUST prevention funding is awarded under an allocation process developed by the Agency. The Agency distributes funds based on the number of federally-regulated USTs in a State and other indicia of State needs. States will provide a twenty-five (25) percent match for cooperative agreements awarded under Section 9011 and other applicable provisions of Subtitle I. There is no matching requirement for LUST prevention cooperative agreements for tribes or Intertribal Consortia awarded pursuant to annual appropriation acts.

LUST Trust Fund Cooperative Agreements for Corrective Action Activities Any LUST funding appropriated in FY 2009 for the UST cleanup programs will be given as grants under the authorities of Section 205 of the Superfund Amendments and Reauthorization Act of 1986. EPA awards cooperative agreements to states under the provisions of EPA's annual appropriations act, Subtitle I of the Solid Waste Disposal Act of 1976 (SWDA), as amended, and Public Law 105-276, Title III, October 2, 1998, Section 9003(h)(7) of the SWDA. Under Public Law 105-276, Congress authorized EPA to use LUST Trust Fund appropriations to award cooperative agreements to tribes for the same purposes as those set forth in Section 9003(h)(7). Policies and procedures applicable to EPA-State LUST Trust Fund cooperative agreements are presented in detail in OSWER Directive 9650.10A, issued May 24, 1994.[17] LUST corrective action funding awarded under Section 9003(h)(7) of the Solid Waste Disposal Act is subject to an allocation process developed by the Agency. By guidance, the Agency has established a process for allocating funds to states under Section 9003(h)(7) based on the cumulative numbers of confirmed UST releases, cleanups initiated, cleanups completed, the percentage of the population using groundwater for drinking water, and the number of states with approved UST programs. This program allocates funding to tribes and Intertribal Consortia non-competitively based on their programmatic needs and national guidance. States must provide a 10-percent cost share for cooperative agreements awarded under Section 9003(h)(7). There is no matching requirement for corrective action cooperative agreements for tribes or Intertribal Consortia awarded pursuant to Public Law 105-276.

Headquarters and Regional Underground Storage Tanks Program Funds from OUST's EPM and LUST national program accounts, subject to availability, support activities that promote the prevention, identification, corrective action, enforcement and management of releases from underground storage tank systems.

EPA's Regulatory Responsibilities for Monitoring Performance Under Grants and Cooperative Agreements As a provider of Federal funds to state UST programs, EPA has a responsibility under 40 CFR Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) and Part 35 (State and Local Assistance) to monitor state performance and require performance reporting under the funding sources listed above for each of the elements of 40 CFR 280 and 281 to

[17] See *http://www.epa.gov/swerust1/directiv/d965010a.htm*

ensure accurate and complete information on program performance and financial management.

Regions are also responsible for negotiating the terms and amounts of the assistance agreements listed below and also for monitoring performance and requiring performance reporting under these agreements:

1) Underground Storage Tanks (UST) program grants authorized by Section 2007(f)(2) of the Solid Waste Disposal Act (SWDA) and certain provisions of the EPAct and funded with State and Tribal Assistance Grant (STAG) appropriations,

2) State Leaking Underground Storage Tanks (LUST) cooperative agreements authorized by Section 9003(h)(7) and 9011 and funded by LUST appropriations,

3) UST and LUST assistance agreements to tribes authorized by P.L. 105-276 and funded by STAG and LUST appropriations, and

4) Direct Implementation Tribal Cooperative Agreements authorized in EPA's annual appropriations and funded by STAG appropriations.

5) Solid Waste Disposal Act of 1976, Section 8001(a) and (b) as amended by the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616.

Performance Indicators

To monitor performance of the program in meeting its twin objectives (prevention and detection of releases, and cleaning up contamination from releases that do occur) OUST has established two primary performance objectives.

The first objective, prevention and detection of releases, has two measures: (1) significant operational compliance (SOC) and (2) number of confirmed releases.

(1) SOC. This measures the number of tanks that comply with both of the release prevention and release detection requirements, and that the tanks are operating and the systems are properly maintained. The implementation of EPA's traditional tools, supplemented by the new tools provided to the program through the Energy Policy Act (EPAct) of 2005, will over time work with state authorities to show a marked increase in the SOC rates across the country. These new tools include: conducting inspections of all active tanks every three years, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers.

(2) Number of confirmed releases. A primary goal of the UST program is to reduce the number of releases that occur annually to less than 10,000. It is critical that every release that occurs (whether the total is greater than or less than 10,000) be discovered, addressed, and reported as expeditiously as possible, because costs for cleanup are

sharply reduced the earlier a release is discovered. Inspections and compliance certifications can create incentives for owners and operators to properly operate and maintain their systems because the more well-maintained these systems are, the fewer leaks there will be. With groundwater being the primary source of drinking water to nearly half of the country's population, leaks from USTs are a significant threat to human health and the environment. By decreasing the numbers of new releases, and continuing our focus on the cleanup program as described below, the underground storage tank program will make an important contribution to the nation's health.

Release Prevention and Detection Performance goals for FY 2009:

- Increase the rate of significant operational compliance by 1% over the previous year's target. The FY 2009 target is 69%.
- No more than 10,000 confirmed releases each year.

The second objective, cleaning up contamination from releases that do occur, has a single measure, which is increasing the number of cleanups that meet state risk-based standards for human exposure and groundwater migration.

Over the history of the program, there have been a total of over 474,127 confirmed releases. The EPA, states, and tribes have worked together to clean up over 365,361 of these, leaving a backlog of 108,876 remaining to be completed.[18] Because there are roughly 7,000 to 8,000 new releases added to this backlog every year, reducing the backlog remains a challenge for the program. EPA has efforts underway to continue to reach out to new partners and find new information and new tools to enhance the ability to address these cleanups. For example, EPA is working to better understand the nature of the cleanups remaining to be completed in the backlog. If EPA can better characterize these remaining cleanups, EPA plans to design targeted strategies that will increase the pace of addressing those sites. EPA is also working to monitor the financial mechanisms being used by states and private parties to finance cleanups, in order to assure there is, and will continue to be, sufficient funding available. EPA is also working to build on the success of the traditional Brownfields program by looking for opportunities to promote the cleanup and redevelopment of abandoned gas stations. Another important resource EPA provides to states and tribes is continuing research into the specific contaminants at LUST cleanup sites, the risk associated with them, and appropriate cleanup tools to address them.

Performance goal for FY 2009:

- Number of LUST cleanups completed that meet state risk-based standards for human exposure and groundwater migration. FY 2009 target is 13,000.

[18] For the most current corrective action measures, see *http://www.epa.gov/swerust1/cat/camarchv.htm*

Underground Storage Tank Programs on Tribal Lands

EPA is responsible for directly implementing the UST program in Indian country. As part of this obligation, the Agency assists tribes in developing their capacity to administer UST programs and works to ensure that UST facilities in Indian country operate in compliance with regulations in order to prevent and clean up leaks. Federal funding is provided to support prevention and remediation activities such as training for tribal environmental staff, education for owners and operators in Indian country about UST requirements, site assessments, cleaning up releases, and Indian country UST data collection and improvement efforts.

In August 2006, EPA published a forward-looking strategy[19] for the implementation of the UST program in Indian country. This strategy was developed with the close collaboration of tribes and lays out priorities and objectives for the Agency to improve the UST tribal program. In particular, the strategy identifies steps that EPA and tribes can take to further the cleanup and compliance of USTs. EPA intends to work with tribes towards meeting the objectives of the strategy which include strengthening relationships, communication, and collaboration; improving information sharing; implementing the provisions of the Energy Policy Act (EPAct); and implementing UST prevention and LUST cleanup activities.

In the upcoming years, EPA will continue to work with tribal partners to meet or exceed established goals to improve UST compliance and release cleanup in Indian country along with meeting the objectives laid out in the tribal strategy. EPA will also work to meet the EPAct requirement of conducting on-site inspections of all tanks in Indian country once every three years.

Performance goal for FY 2009:

- Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration in Indian country. FY 2009 target is 30.

Program Priorities and Initiatives

Implementing the Energy Policy Act of 2005 The UST provisions of the Energy Policy Act (EPAct) significantly affect the program at both the Federal and state level. Among other things, it expands eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund, and includes a number of provisions to strengthen program implementation. To implement the new law, EPA and states and tribes will work closely with other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.[20] Key objectives of EPAct

[19] Refer to *Strategy for An EPA/Tribal Partnership To Implement Section 1529 Of The EPAct Of 2005*, August 2006, EPA-510-F-06-005, *http://www.epa.gov/OUST/fedlaws/Tribal%20Strategy_080706r.pdf*

[20] For further information and final EPA grant guidance, see *http://www.epa.gov/swerust1/fedlaws/EPActUST.htm*.

implementation include: (1) conducting more frequent inspections; (2) prohibiting delivery to noncompliant tanks; and (3) requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers.

Improving Compliance EPA recognizes that compliance with UST regulations offers the best prospects for preventing releases, detecting releases as soon after they occur as practicable, and cleaning up releases as early as possible to minimize harmful environmental impacts and protect human health. Key objectives of this initiative include: (1) providing assistance to states and tribes in implementing the UST program; (2) providing assistance and alternative mechanisms (e.g., conducting more frequent inspections, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for tank systems or financial responsibility for manufacturers and installers) to states to help them meet their new responsibilities authorized under the Energy Policy Act (EPAct)[21]; (3) providing assistance to tribes in conducting inspections in Indian country of all tanks not inspected since 1998, and then conducting on-site inspections of all tanks every three years thereafter; (4) encouraging owners and operators to properly operate and maintain their USTs; (5) ensuring owners and operators routinely and correctly monitor all regulated tanks and piping in accordance with the regulations; and (6) developing state programs with sufficient authority and enforcement capabilities to operate in lieu of the Federal program.

Reducing the Cleanup Backlog Since 2000 the number of cleanups completed annually by states has decreased while Federal LUST appropriation current-year dollars remained level. The reasons at present are not fully understood.

EPA has initiated a project to collect more information on the existing backlog, and engage states and regions in developing national and state-specific strategies to reinvigorate cleanups. Key objectives of this initiative include: (1) achieving a better understanding of the current backlog of sites and remaining administrative legal and technical impediments to cleanup; (2) monitoring the soundness of state cleanup funds, a significant source of funding for addressing LUST cleanups; (3) promoting the continued use, reuse, and long-term management of LUST sites; (4) focusing on increasing the efficiency and effectiveness of LUST cleanups nationwide; (5) addressing contaminants of concern and the impact of contaminants; (6) optimizing the use of cleanup technologies; and (7) streamlining cleanup decisions and processes.

Revitalizing Abandoned Gas Stations To encourage the reuse of abandoned properties contaminated with petroleum from underground storage tanks (UST's), OUST created the USTfields Initiative in 2000. "USTfields" are abandoned or underused industrial and commercial properties where revitalization is complicated by real or perceived environmental contamination from underground storage tanks. The purpose of these pilots was to promote: the importance of public-private partnerships; the critical role of the state as the primary implementing agency; and the leveraging of private funds to maximize cleanups. This initiative has evolved and expanded and is now within EPA's

[21] The Energy Policy Act imposed a number of conditions on states receiving funding. For details see *http://www.epa.gov/swerust1/fedlaws/EPActUST.htm*

Brownfields program and sites where petroleum contamination is present are referred to as "Petroleum Brownfields". Key objectives of this initiative include: (1) working with Brownfields and OSWER Revitalization efforts to implement the petroleum provision of the Brownfields law, (2) working to increase state tank program participation in revitalization of petroleum contaminated sites, including measuring progress based on estimating the number of acres protective for people for future use; (3) identify lessons learned from EPA's investment in USTfields pilots and subsequent petroleum Brownfields grant recipients, and; (4) enhancing collaborations with private stakeholders to help identify and surmount impediments to the revitalization of these smaller members of the Brownfields universe.

Beginning in FY2008, all OSWER offices now report on the number of acres affected by these revitalization programs. OUST reports on three new measures regarding the acres addressed by its LUST cleanup program: Universe, Protective for People, and Ready for Anticipated Uses. These measures will not require any additional reporting from regions or states, but will simply be calculated from the measures already reported. For example, one Confirmed Release will equal one site and one acre for the Universe Indicator, which reports the total number of sites and acres being addressed by the LUST cleanup program. One Cleanup Completed will also equal one acre for the Protective for People as well as the Ready for Anticipated Uses Performance Measures.

Evaluating Program Performance Key objectives of OUST's program measurement and evaluation include: (1) continuing to provide analytical reports that track national and regional program performance; (2) improving data quality; (3) examining viability and identifying ways to improve underground storage tank financial assurance mechanisms, including state cleanup funds, (4) conducting evaluations of specific state cleanup workloads to determine strategies for expediting and improving state cleanups programs; (5) developing methods to explicitly highlight the environmental and public health outcomes and benefits of completing LUST cleanups; (6) considering various options for performance measure efficiency and accounting for the impacts of the Energy Policy Act of 2005 and (7) continued participation in advancing OSWER's Petroleum Brownfields and Revitalization work as well as other cross-media and cross task forces, such as long-term stewardship and identifying USTs and LUSTs in source water areas.

Performance Monitoring and Reporting

Regional Coordination Regional Planning Meetings, Regional Division Directors' meetings, and regularly scheduled monthly conference calls between OUST and the Regional UST/LUST Program Managers provide opportunities for OUST and Regional management to assess the strengths and weaknesses of state programs and decide where EPA's support is most needed and would be most productive. OUST will hold additional Regional Planning Meetings, as needed.

Regional offices are expected to verify the accuracy and completeness of data provided by states. In order to avoid "last minute" reviews, verification must be an ongoing process each time states submit data to the Regional offices. Regional offices must either develop

their own verification processes or follow verification guidance provided by OUST; in general, such processes should involve sufficient interaction with states that the Regional offices can be confident that the data submitted at the end of each reporting period are complete, up-to-date, and accurate.[22] Each Regional office should conduct reviews of state data. In addition, Regional offices are held accountable for working with states to improve their data systems where appropriate.

State Reporting Requirements and Schedule States are required to submit performance information on a semi-annual basis. States must report Mid-Year performance data on or before April 5 of each year. Regional offices must report to OUST the states' Mid-Year performance data on or before April 10 of each year.

States must report to the Regional offices estimated End-of-Year performance data on or before September 7 of each year. Regional offices must report to OUST the estimated End-of-Year performance data by September 14 of each year. States must report final End-of-Year performance data on or before October 8 of each year. Regional offices must report to OUST final Regional offices End-of-Year performance data on or before October 15.

Deliverable Dates for State and Regional Programs.

Date	States	Regions
April 5	Report mid-year numbers to Regional offices.	
April 10		Report Final mid-year numbers to Headquarters
September 7	Report Estimates for end-of-year numbers to Regional offices.	
September 14		Report Estimates for end-of-year numbers to Headquarters
October 1 – 7	Report Final end-of-year numbers to Regional offices.	
October 15		Report Final end-of-year numbers to Headquarters

[22] Reporting elements are specified in an annual memorandum from OUST's Office Director to Regional Division Directors, Regional Program Managers, and State program contacts.

Synopsis of OSWER's Feedback Process

Upon receiving the draft 2009 guidances from the National Program Managers (NPMs), the Office of the Chief Financial Officer (OCFO) will post them on its internet site and notify its counterparts in the EPA Regional offices. OCFO also will notify the Environmental Council of the States and EPA tribal planning contacts. The review period lasts approximately one month.

OSWER program office contacts (listed at the end of the guidance's executive summary) work closely with Regional program implementers and will relay any concerns to OSWER's Office of Program Management (OPM). EPA's state and tribal co-implementers and stakeholders may send their comments directly to OSWER's Assistant Administrator or to OCFO management. Regional and stakeholder comments and suggestions will be considered by OSWER for the final draft of the guidance to be released in late-April.

OSWER NATIONAL PROGRAM MANAGER GUIDANCE
GRANTS MANAGEMENT GUIDELINES
FOR FY 2009

OSWER places a high priority on accountability and effective grants management in the solicitation, selection, award, and administration of assistance agreements in support of OSWER's mission. The following key areas will be emphasized as we implement our grant programs:

1. Standardizing the timing of issuance of grants guidance for categorical grants (i.e., by April of the fiscal year prior to the year in which the guidance applies);
2. Ensuring effective management through emphasis on training and accountability standards for Project Officers and their managers; and
3. Utilizing new state grant templates to link grants performance to the achievement of environmental results as detailed in the Agency's Strategic Plan and the OSWER National Program Manager Guidance.

The Office of Grants and Debarment (OGD), in its efforts to strengthen the management and oversight of Agency assistance agreements, issued a *"Grants Management Plan for 2003-2008."* The plan is designed to help ensure grant programs meet the highest management and fiduciary standards and further the Agency's mission of protecting human health and the environment. The plan highlights five grants management goals:

1. Enhance the skills of EPA personnel involved in grants management;
2. Promote competition in the award of grants;
3. Leverage technology to improve program performance;
4. Strengthen EPA oversight of grants; and
5. Support identifying and realizing environmental outcomes.

OSWER continues to promote these goals and is working closely with OGD on updating the Grants Management Plan.

Timing of Guidance Issued for Categorical Grants

One of OSWER's objectives is to organize and coordinate the issuance of draft and final guidance documents, including grants guidance, to coincide as much as possible with State, tribal, and regional planning processes. As a result, all guidance packages for categorical grant programs are to be issued by April of the year in advance of the fiscal year of availability of funds if at all possible (i.e., guidance for fiscal year 2008 appropriated funds needs to be issued by April 2007). Not all categorical grant programs issue annual guidance. These programs may simply indicate that they are continuing to use their current guidance.

Effective Grants Management

OSWER's Acquisition and Resources Management Staff (ARMS) serves as liaison to OGD and the first resource for Project Officers and their managers in disseminating, implementing, and ensuring compliance with EPA new and existing grants management policies and procedures. ARMS also serves as the point of contact in consultations with our regional offices and Grant Coordinators Workgroup.

ARMS central coordinating role serves to ensure consistent implementation and compliance with Agency grants management policies and procedures throughout OSWER Headquarters and regional program offices. This enables OSWER project officers to focus on how best to properly manage assistance agreements to meet program goals and objectives.

ARMS provides training, on an as-needed basis, and strongly encourages OSWER Grant Coordinators, Project Officers, and their managers to participate in training which addresses the core competency areas identified in the Agency's *Long-Term Grants Management Training Plan*.

Promoting Competition

OSWER places great importance on assuring that, to the maximum extent possible, all discretionary funding opportunities are awarded in a fair and open competitive environment and that no applicant receives an unfair advantage. OSWER Project Officers must ensure that these actions are fully compliant with EPA Order 5700.5A1, *Policy for Competition of Assistance Agreements* in the solicitation, selection, and award of assistance agreements.

The competition policy, effective January 15, 2005, applies to:

1. competitive announcements issued, released, or posted after January 14, 2005;
2. assistance agreement competitions, awards, and disputes based on competitive announcements issued, released, or posted after January 14, 2005;
3. non-competitive awards resulting from non-competitive funding recommendations submitted to a Grants Management Office after January 14, 2005; and
4. assistance agreement amendments issued after January 14, 2005.

For each competitive funding opportunity announcement, OSWER's Senior Resource Official certifies that the expected outcomes from the awards are appropriate and in support of program goals and, that the announcement is written in a manner to promote competition to the maximum extent practicable.

In accordance with Agency policy, all OSWER competitive funding opportunity announcement are advertised by posting to Grants.gov, the central Federal electronic portal for applying for grant opportunities.

Ensuring Effective Oversight of Assistance Agreements

Consistent with guidance from the Grants Administration Division, OSWER develops a *Post-Award Management Plan* which presents our strategy for ensuring proper oversight and management of assistance agreements, specifically, grants and cooperative agreements. The plan, developed in accordance with EPA Order 5700.6 A1, *"Policy on Compliance, Review and Monitoring,"* establishes baseline monitoring requirements for all OSWER grants and cooperative agreements and defines the responsibilities of OSWER managers for post-award monitoring of assistance agreements. The plan does not apply to OSWER regional grants or cooperative agreements, nor does it include requirements for Interagency Agreements (IAGs).

Monitoring activities ensure satisfaction of five core areas:

1. Compliance with all programmatic terms and conditions;
2. Correlation of the recipient's work plan/application and actual progress under the award;
3. Availability of funds to complete the project;
4. Proper management of and accounting for equipment purchased under the award; and
5. Compliance with all statutory and regulatory requirements of the program.

Baseline monitoring activities are conducted by Project Officers on every assistance agreement award issued through OSWER program offices. Project Officers are responsible for conducting baseline monitoring on an ongoing basis throughout the life of each agreement. The objective is to keep track of progress on the assistance agreement, ensuring that each recipient maintains compliance with all terms and conditions of the award, including financial and programmatic conditions.

Annually, OSWER conducts Advanced Monitoring Activities (including both on-site and off-site evaluative reviews) on a minimum of 10 percent of our assistance agreement recipients. The reviews are conducted using the "Desk and Off-site Review Protocol" and "On-Site Review Protocol" guidance offered in EPA Order 5700.6 A1. Project Officers are required to submit reports of the reviews, in the "Required Format for Writing a Programmatic Review Report for On-site and Off-site Evaluative Reviews," within 60 calendar days of completion of the evaluation.

OSWER continually stresses the importance of Project Officer's timely submission of evaluative reviews into the Grantee Compliance Database. Implementation of EPA Order 5700.8, *"EPA Policy on Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards,"* effective March 31, 2005, further highlights the necessity of timely submission. Under the Order, Project Officers are required to assess the programmatic capability of the non-profit applicant, taking into account pertinent information from the Grantee Compliance Database and the grant application. Project Officers are required to provide an assurance in the funding recommendation/funding

package that the applicant possesses, or will possess, the necessary programmatic capability.

All competitive grant announcements, under which non-profit organizations can compete, must contain a programmatic capability ranking factor(s). Non-profit applicants and other applicants that compete will be evaluated under this factor. Non-profit applicants selected for funding will be subject to a review for administrative capability similar to that for non-competitive awards.

Project Officer Performance Standards

OSWER supports the requirement that all employees involved in grants management should have their grants management responsibilities appropriately addressed in their performance agreements. On January 5, 2007, the Office of Grants and Debarment (OGD) issued a memorandum entitled "Assessing 2007 Grants Management Performance under the Performance Appraisal and Recognition System (PARS)." The memorandum implements recommendations resulting from a cross-Agency Performance Measures Workgroup that developed several performance measures for assessing the grants management performance of project officers, supervisors and managers.

OSWER's Senior Resource Official has mandated the inclusion of factors that address grants management responsibilities in the performance standards of our Project Officers. To assist in this effort, OSWER has disseminated the guidance provided by OGD's January 5, 2007 memorandum to all of our Project Officers, Managers, and Grant Coordinators. The guidance, as applicable, will be used in 2007 mid-year and end-of-year performance reviews and in the development of 2008 PARS agreements.

Environmental Results of Grants and Link to *Strategic Plan*

On January 1, 2005, EPA issued the Environmental Results Order (5700.7). Under the Order, Program Offices are required to identify and link environmental results from proposed assistance agreements to the Agency's Strategic Plan/GPRA architecture. Further, the Order requires that the linkage to the Strategic Plan, as well as anticipated outputs and outcomes are identified and addressed in assistance agreement competitive funding announcements, work plans, and performance reports submitted to Grants Management Offices after January 1, 2005.

In compliance with the Environmental Results Order, OSWER requires that Project Officers identify the linkage to the Agency Strategic Plan, including goals, objectives, and sub-objectives, and anticipated outcomes and outputs in all competitive funding announcements, prior to obtaining AA certification. Additionally, OSWER has identified environmental results as a "key topic" area in reviewing and approving funding packages for award, prior to submission to GAD.

For consistency, OSWER, in collaboration with our regional and state partners, has developed new state grant templates for Hazardous Waste Financial Assistance,

Brownfields and Underground Storage Tanks grant programs. The templates, mandated by OMB, will be useful in identifying environmental results from OSWER categorical grant activities, and their linkage to the Agency's Strategic Plan/GPRA architecture.

Goals 3, 4 and 5 of EPA's 2006-2011 Strategic Plan present specific OSWER objectives, sub-objectives and strategic targets that define, in measurable terms, the change in public health or environmental conditions to be accomplished by 2011. EPA's 2006-2011 Strategic Plan is available at http://www.epa.gov/ocfo/plan/plan.htm.

Environmental Justice

OSWER supports innovative and collaborative approaches to environmental problem-solving. Environmental justice (EJ) is a priority throughout all of OSWER's waste programs, promoting healthy and environmentally sound conditions for all people. OSWER will ensure accountability for implementing EJ measures by continuing to develop and implement EJ Action Plans which are linked to our Government Performance and Results Act (GPRA) goals.

OSWER's national programs, including Superfund, Emergency Response and Prevention, RCRA Waste Management, Underground Storage Tanks, Brownfields and Land Revitalization remain in the forefront of EPA's efforts to advance EJ, and to integrate these concerns into its daily business. OSWER undertakes EJ-related activities, such as developing and utilizing assessment methodologies and tools, which support EPA's annual and long term goals. Regions should refer to OSWER's 2009 NPM Guidance, and OSWER's 2009 EJ Action Plan, when developing their individual 2009 EJ Action Plans. In tandem with existing EJ program support, OSWER will focus on the following key areas to help improve environmental justice program development and performance:

- Enhance and maintain a stable set of internal measures for routine analysis of OSWER EJ program performance.
- Increase the level of understanding of the concept of risk and EPA's role/approach to risk in communities with environmental justice concerns.
- Improve outreach and results from OSWER EJ Fundamentals training.
- Improve outreach and tools in OSWER that focus on: analysis, performance measurement, population vulnerability, cumulative impacts (e.g. multi-facility), or other EJ-oriented measure of risk and revitalization in communities with EJ concerns.
- Regions are asked to work with states to, in part, "consider risk" when prioritizing facilities to be addressed in multi-year permitting strategies. Regions could also be asked to consider population vulnerability, cumulative impacts (e.g. multi-facility), or other EJ-oriented measure of risk. (Goal 3; Subobjective 3.1.2).
- Progress towards RCRA GPRA goals in potential EJ communities should advance at least at the same pace as in non-EJ areas. (Goal 3; 3.1.2).
- Work toward these GPRA goals could be prioritized in part based on EJ-oriented measures of risk. (Goal 3; 3.2.2).
- Regions should support and work closely with states to ensure that environmental regulations, applicable Federal EJ policies, strategies, tools and training programs are used to adequately address EJ concerns. (Goal 3; 3.2.2).
- Regions are asked to include risk-based measures that address EJ concerns (such as cumulative impacts, population vulnerability, exposure pathways related to subsistence fishing, etc.) when making decisions for chemicals to reduce (in addition to 31 priority chemicals). (Goal 5; 5.2.1).

- In communicating with stakeholders about the Schools Chemical Cleanout Campaign, OSWER supports a focus on schools that face particularly high financial and technical barriers to implementation.
- Enhanced understandings of health risks associated with methamphetamine contaminated brownfield sites on tribal lands and training for at least 100 tribal representatives on methamphetamine health related exposure risks at abandoned labs, assessment, and cleanup methods. (Goal 4; 4.2.3).
- Outreach and education to community-based organizations and community development corporations in socio-economically disadvantaged communities throughout New Jersey, New York, and Pennsylvania regarding the resources needed and economic feasibility of undertaking brownfields redevelopment projects. (Goal 4; 4.2.3).
- Technical assistance to communities experiencing issues associated with vapor intrusion, institutional controls, and concerns related to siting schools on brownfields. (Goal 4; 4.2.3).
- Training and education to at least 10 communities interested in developing brownfields job training programs. (Goal 4; 4.2.3).
- Development of a hedonic pricing model used to identify the contribution of social, economic, and environmental changes to property values in low-income and minority communities with significant brownfields. (Goal 4; 4.2.3).
- Correlate existing brownfields assessment, targeted brownfields assessment, cleanup, and revolving loan fund geographic data with US census demographic data to better understand the socioeconomic composition of communities who have received brownfields funding and subsequent future targeted outreach efforts. (Goal 4; 4.2.3).

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2009 NPM GUIDANCE MEASURES APPENDIX

						REGIONAL OFFICE										
G/O/S	ACS Code	Measure Text	Non-Commit-ment Indicator (Y/N)	State Grant Template Measure (Y/N)	Nat. Target	01	02	03	04	05	06	07	08	09	10	HQ
3.1.1	MW9	Billions of pounds of municpal solid waste reduced, reused or recycled.	N	N	19.5											
3.1.1	MW0	Millions of tons of construction and demolition debris that is reused or recycled.	N	N	XX											
3.1.2	324	Number of inspections and exercises conducted at oil storage facilities that are required to have Facility Response Plans.	N	N	250											
3.1.2	HW0	Number of hazardous waste facilities with new or updated controls (PART).	N	Y	100											
3.1.2	ST1	No more than 10,000 confirmed releases per year (PART).	Y	N	< 10,000 (UST releases)											
3.1.2	ST6	Increase the rate of significant operational compliance by 1% over the previous year's target (PART).	Y	Y	69%											
3.1.2	TR1	Number of tribes covered by an integrated waste management plan .	N	N	16											
3.1.2	TR2	Number of closed, cleaned up or upgraded open dumps in Indian Country or other tribal lands.	N	N	27											
3.2.1	132	Number of Superfund-lead removal actions completed (PART).	N	N	195											
3.2.1	133	Number of voluntary removal actions, overseen by EPA, completed (PART).	N	N	130											
3.2.1	327A	Percentage of inspected facilities subject to Facility Response Plan (FRP) regulations found to be in compliance (PART).	Y	N	82%											
3.2.1	328A	Percentage of inspected facilities subject to Spill Prevention, Control and Countermeasure (SPCC) regulations found to be in compliance (PART).	Y	N	58%											
3.2.1	C1	Score in annual Core ER assessment.	Y	N	75%											
3.2.2	112	Number of LUST cleanups completed that meet state risk-based standards for human exposure and groundwater migration (PART).	N	N	13,000											

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2009 NPM GUIDANCE MEASURES APPENDIX

						REGIONAL OFFICE										
G/O/S	ACS Code	Measure Text	Non-Commit-ment Indicator (Y/N)	State Grant Template Measure (Y/N)	Nat. Target	01	02	03	04	05	06	07	08	09	10	HQ
3.2.2	113	Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration in Indian Country (PART).	N	N	30											
3.2.2	121	Number of Superfund final site assessment decisions (PART).	N	N	400											
3.2.2	141	Number of Superfund construction completions (PART).	N	N	35											
3.2.2	151	Number of Superfund sites with human exposures under control (PART).	N	N	10											
3.2.2	152	Number of Superfund sites with contaminated groundwater migration under control (PART).	N	N	15											
3.2.2	CA1	Number of RCRA facilities with human exposures under control (PART).	N	Y	60											
3.2.2	CA2	Number of RCRA facilities with migration of contaminated groundwater under control (PART).	N	N	60											
3.2.2	CA5	Number of RCRA facilities with final remedies constructed.	N	Y	100											
3.2.2	S10	Number of Superfund sites ready for anticipated use site-wide.	N	N	30											
3.2.3	OSRE-01	Each year through 2011, reach a settlement or take an enforcement action before the start of a remedial action at 95 percent of Superfund sites having viable, liable responsible parties other than the federal government.	N	N	95%											

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2009 NPM GUIDANCE MEASURES APPENDIX

G/O/S	ACS Code	Measure Text	Non-Commit-ment Indicator (Y/N)	State Grant Template Measure (Y/N)	Nat. Target	01	02	03	04	05	06	07	08	09	10	HQ
3.2.3	OSRE-02	Each year through 2011, address all Statute of Limitations cases for Superfund sites with unaddressed total past costs equal to or greater than $200,000.	N	N	100%											
3.2.3	OSRE-03	Number of PRP-lead removal completions with enforceable instruments	N	N	50											
4.1.2	CH2	Number of risk management plan audits and inspections completed.	N	N	400											
4.1.3	PC1	Number of sites receiving 40 CFR 761.61(a) or (c) approvals.	N	N	40											
4.1.3	PC2	Number of acres to be remediated under 40 CFR 761.61(a) or (c) approvals.	N	N	100											
4.2.3	B29	Number of Brownfields properties assessed (PART).	N	Y	1,000											
4.2.3	B32	Properties cleaned up using Brownfields funding.	N	Y	60											
4.2.3	B33	Acres of Brownfields property made ready for reuse (PART).	Y	N	225											
4.2.3	B34	Jobs leveraged from Brownfields activities.	Y	N	5,000											
4.2.3	B37	Billions of dollars of cleanup and redevelopment funds leveraged at Brownfields sites (PART).	Y	N	0.9											
4.2.3	B38	Number of tribes supported by Brownfields cooperative agreements.	Y	N	N/A											
5.2.1	PB8	Number of pounds reduced (in millions) of priority chemicals as reported by National Partnership for Environmental Priorities members (PART).	N	N	1.0											

Environmental Protection Agency

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FY 2009 STATE GRANT MEASURES APPENDIX

				REGIONAL OFFICE										
G/O/S	**ACS Code**	**Measure Text**	**Nat. Target**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**HQ**
3.1.2	HW0	Number of hazardous waste facilities with new or updated controls.	100											
3.1.2	ST6	Increase the rate of significant operational compliance by 1% over the previous year's target.	69%											
3.2.2	CA1	Number of RCRA facilities with human exposures under control.	60											
3.2.2	CA5	Number of RCRA facilities with final remedies constructed.	100											
4.2.3	B29	Number of Brownfields properties assessed.	1,000											
4.2.3	B32	Properties cleaned up using Brownfields funding.	60											

Explanation of Changes from FY 2008 to FY 2009

Office of Solid Waste and Emergency Response

Change from FY 2008 Guidance Document		Reason for Change	Sections and Effected Pages
Priorities	Superfund program must devote additional attention to the growing universe of sites that reach the post-construction complete phase.	Approximately 65 percent of NPL sites have achieved construction completion and are in the post-construction phase of the cleanup pipeline. Emphasis is primarily to ensure that remedies remain protective and also to increase effectiveness and/ or reduce costs.	Executive summary; page 7.
Strategies	Brownfields Program will streamline the Assessment, Revolving Loan Fund and Cleanup (ARC) Grant Guidelines.	To ensure the highest quality, most viable projects are funded to further meet assessment, cleanup and land revitalization goals.	Executive summary; page 7.
	In coordination with the U.S. Army Corps of Engineers and consulting engineers, EPA's Superfund program plans to establish a Center of Expertise to advise Regional offices on how to appropriately stage significant design and construction projects.	To improve program management and increase efficiency.	Executive summary; page 7.
Annual Commitment Measures	Two hazardous waste management measures - permits or other approved controls (HW3) and permit renewals (HW7) are combined into one measure.	The 2006-2011 EPA Strategic Plan combined the measures.	National Program Strategies; page26.
	New municipal solid waste measure, "Billions of pounds of municipal solid waste reduced, reused or recycled (MW9)."	Succeeds MSW measure, "Millions of pounds of municipal solid waste recycled," which extends through FY 2008.	Measures appendix; attachment I, page 1.

Change from FY 2008 Guidance Document		Reason for Change	Effected Pages and Sections
Tracking Process	No changes indicated.		
Contacts	Patricia Overmeyer (202) 566-2774	New Revitalization program contact.	Executive summary; page 8.
	Rachel Lentz (202) 566-2745	New Brownfields program contact.	Executive summary; page 8.
	Hal White (703) 603-7177	New Underground Storage Tank program contact.	Executive summary; page 8.
	Cathy Allen (202) 566-1039	OSWER's Clean Energy/ Greenhouse Gas program contact.	Executive summary; page 8.

State Reporting Burden Recommendations Summary

Office of Solid Waste and Emergency Response

Original Reporting Requirement	State Recommendation	Change Adopted (FY07/08)
Quarterly Reporting	Change frequency of Superfund Site Assessment reports from quarterly to semi-annually; reduce National Priorities List (NPL) oversight activities report to annual.	Final rule, effective July 2007, relaxes reporting frequency. Terms will be based on the particular cooperative agreement negotiated between EPA, state or tribe.
Hazardous waste end-of-year reporting	Change from printed reports to electronic.	R8 and SD have come to an agreement on preparing a joint end-of-year report beginning next PPA cycle (2008-2012).
Superfund and Brownfields reports (number of jobs created)	Eliminate requirement to report on number of jobs created under Brownfields grants: states must rely on facilities for data and cannot verify.	Not a mandatory requirement for state and tribal 128 grantees; the grant property profile reporting form asks grantees to provide this information "as it is available."
Hazardous waste reporting	Implement a streamlined program authorization approval process.	EPA implemented a streamlined authorization application process in 2003. The "Express Authorization" process has been implemented.
RCRAInfo database	Eliminate requests for reports that can be generated by EPA through database; improve user interface; reduce number of corrective action codes; new EPA software (Jan. '06) prevents states from uploading Waste Data System information into RCRA database.	RCRAInfo V4, which is scheduled for release by end of 2008, will address concerns. EPA will utilize data available in RCRAInfo for reporting rather than request the same data from the regions and states directly. Will be implemented in FY 2009.
State Underground Storage Tank (UST) Fund Soundness data form	Simplify form and reduce data required.	New guidance simplifying the reporting form will be issued to the regions in 2008.